

By Mr. SMATHERS:

S.J. Res. 169. Joint resolution authorizing the President to issue a proclamation designating the 7-day period beginning May 24, 1960, as "All-American Family Week"; to the Committee on the Judiciary.

By Mr. CHURCH:

S.J. Res. 170. Joint resolution to authorize the participation in an international convention of representative citizens from the North Atlantic Treaty nations to examine how greater political and economic cooperation among their peoples may be promoted, to provide for the appointment of U.S. delegates to such convention, and for other purposes; placed on the calendar.

(See the reference to the above joint resolution when reported by Mr. CHURCH, which appears under the heading "Reports of Committees.")

CONCURRENT RESOLUTION

ADDITIONAL COPIES OF HEARINGS BEFORE SUBCOMMITTEE ON AGREEMENTS FOR COOPERATION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

Mr. ANDERSON submitted the following concurrent resolution (S. Con. Res. 91); which was referred to the Committee on Rules and Administration:

Resolved by the Senate (the House of Representatives concurring), That there be reprinted for the use of the Joint Committee on Atomic Energy two thousand additional copies of the hearings before the Subcommittee on Agreements for Cooperation of the Joint Committee on Atomic Energy on Amending the Atomic Energy Act of 1954 with respect to exchange of military information and material with allies during the second session of the Eighty-fifth Congress.

EXECUTIVE CONFLICT OF INTEREST ACT OF 1960

Mr. JAVITS. Mr. President, on behalf of myself, and my colleague the junior Senator from New York [Mr. KEATING], I introduce, for appropriate reference—and I shall ask unanimous consent in a moment for permission to have other Senators cosponsor the bill—the "Executive Conflict of Interest Act of 1960," a comprehensive ethics bill applying to the 2,266,000 civilian employees of the Federal Government, regular and temporary, and to the 2,632,000 members of the Armed Forces. Representative JOHN LINDSAY, Republican, of New York, will introduce the bill in the House of Representatives.

The proposed legislation was drafted by the special committee on the Federal conflict-of-interest laws of the association of the bar of the city of New York and is being introduced Tuesday to coincide with the public release by the association of the results of its 2-year study.

At this point in my remarks, I ask unanimous consent to have printed in the Record a list of the distinguished members of the committee, headed by Roswell B. Perkins, of New York, and including our colleague in the other body, Representative LINDSAY.

There being no objection, the list was ordered to be printed in the Record, as follows:

The members of the committee are Roswell B. Perkins, of New York, former Assist-

ant Secretary of Health, Education, and Welfare, chairman; Howard F. Burns, of Cleveland, Ohio, member of the council of the American Law Institute; Charles A. Coolidge, of Boston, former Assistant Secretary of Defense for legal and legislative affairs; Paul M. Herzog, of New York, former Chairman, National Labor Relations Board; Alexander C. Hoagland, Jr., of New York; Everett L. Hollis, former General Counsel, Atomic Energy Commission; Charles A. Horsky, former Assistant Prosecutor at Nuremberg with the Chief of Counsel for War Crimes; Congressman John V. Lindsay, Republican, of New York, former executive assistant to the Attorney General; John E. Lockwood, of New York, former General Counsel, Office of Inter-American Affairs; and Samuel I. Rosenman, of New York, former Special Counsel to Presidents Roosevelt and Truman.

Mr. JAVITS. Mr. President, the proposed statute would codify various conflict-of-interest laws, repeal those now outdated, and extend its application to those engaged in the full range of modern Federal activity, including Government consultants to a more limited extent, with civil and criminal enforcement provisions. Charged with overseeing the operations of the act would be an Administrator to be designated by the President and to serve within the Executive Office.

Specifically prohibited under this conflict-of-interest proposal would be, first, receipt of gifts, gratuities, or favors when offered to an employee because of his post with the Federal Government, or if the giver is one who does business with the employee's agency or is regulated by it; second, receipt of pay from an outside source in return for personal services, unless such work is performed outside Government hours and is not otherwise prevented by agency regulations; and, third, ex-employees from assisting others, whether or not for compensation, in transactions with the Government in which the persons were previously involved; nor may the former Government workers' partners undertake such work for a period of 2 years. Again, that refers to the case where the ex-employee was involved in the activity.

Upon entering Government service in the executive branch, and periodically thereafter, every employee would be required to sign a statement that he or she has read a summary of the rules on conflicts of interest set up under the act and the accompanying regulations. Under the act there is specific provision for the retention of certain outside economic interests by Government employees such as participation in company pension plans.

The Nation's conscience has been deeply troubled during the last few months over disclosures of practices reflecting a breakdown in ethical conduct on the part of a small minority in various businesses and industries. In recent years, the misconduct or the alleged misconduct of a very few Federal employees have subjected Government workers to similar criticism, which as in business, unfairly reflects discredit on the great majority of loyal, hardworking employees whose integrity and devotion should be beyond question.

Therefore, this comprehensive report and recommended draft legislation on

executive conflicts of interest as prepared by the special committee of the Association of the Bar of the City of New York is truly an invaluable document which makes a real contribution to one of the most perplexing personnel problems of government—the recruiting and retraining at all levels of government service of individuals of high ability and integrity. Well known is the fact that many government salaries are not always compatible with pay levels for similar jobs in private industry. And in many instances, genuine confusion and misunderstanding about existing conflict of interest rules or regulations have arisen and led to most unfortunate situations which have embarrassed many Government employees not immediately involved. At the same time, the public is absolutely entitled to the reassurance that understandable, uniform, and equitable standards of conduct have been established to give guidance to employees in the executive branch—guidelines for action in every modern field of activity by the Federal Government which we believe are genuinely desired by executive department employees.

We are interested to note that the special committee recommends a study be made of what type of ethics legislation should apply to members of the legislative branch. We have previously introduced ethics legislation which calls for just that—the establishment of a Commission on Ethics in the Federal Government to study and develop legislative recommendations while an interim code of ethics patterned after that presently in force in New York State is in operation at the Federal level.

I pause here in my prepared remarks to emphasize that we do not feel that Members of this legislative body, the U.S. Congress, are entitled to any special position or status, but that they, too, should be covered by conflict of interest legislation.

We hope very much that as the bill is considered, since it is a splendid demonstration of how citizens can help our Government, we shall at one and the same time consider proposed ethics legislation for members of the legislative branch.

Mr. President, as my colleague from Wisconsin [Mr. PROXMIRE] has already noted, there is a very important provision which gives to Senate committees considering the confirmation of the nominations of persons to be officials of the executive department an opportunity to get the benefit of the advice and factual information which is available to the Government administrator.

Mr. President, of particular significance in evaluating the work of the Association of the Bar of New York is the fact that it has been largely performed by lawyers previously in the employ of the Federal Government who are cognizant of the various ethical problems which normally arise. Second, this carefully drawn report is the output of many months of exhaustive work. Too often, we tend to wait until headlines about one person's unethical conduct hit us right between the eyes before we act. Here is a reasoned, practical ap-

proach to the problem translated into specific legislative recommendations. The hodgepodge of conflict of interest laws now on the books should be revised or replaced as soon as possible if the public and the public servants are to receive the protection to which both are entitled.

Our bill would place chief reliance on administrative and civil remedies for those who violate the proposed rules and regulations developed by the administrator and the heads of agencies and departments under the direction of the President. Under the civil enforcement provisions, an individual may be suspended or dismissed following appropriate hearings and appeals. In addition, any Government action or contract involved in the ethics violation may be received by the Government; the Attorney General may sue to recover three times the value of any improper acquisition obtained by the violator, and a civil penalty of up to \$5,000 can be recovered for some of the most serious infractions. Criminal penalties include the imposition of a \$10,000 fine, imprisonment up to 1 year or both if the violation was with specific intent.

In conclusion, Mr. President, I should like to emphasize that we are very serious about this matter. This is a very serious bill. The association of the bar has done a magnificent job in the public interest. The foundation which financed the work has done a magnificent job in the public interest.

It is the intent of my colleague [Mr. KEATING] and myself not to let this matter rest. People in our free society are entitled to the best kind of government, but more than anything else they are entitled to honest government, especially when we have a thorough job done, such as this, which does not go into impracticalities but really applies practical, well-recognized, and accepted standards in a moral tone, as it were, which the whole community wishes to apply to a measure of this kind.

Mr. President, I hope that this will not be considered another exercise in fine thinking or in bar association draftsmanship. I appeal directly to the leaders of the majority and minority in the Senate to see that we get action upon this particular measure, and to see that we do not wait until some other scandal breaks upon us before we get all excited about the matter once again. We should act on the matter in advance, when thoughtful consideration may be given to a very thoughtful and representative job such as this.

Mr. President, I ask unanimous consent that the bill which we are introducing, for appropriate reference, may be printed in the RECORD, together with a memorandum of explanation on the bill which I have received from the Association of the Bar of the City of New York; and, Mr. President, following the desire of the Senator from Wisconsin [Mr. PROXMIER], I ask unanimous consent that the name of the Senator from Wisconsin may be added as a cosponsor.

The PRESIDING OFFICER (Mr. McNAMARA in the chair). Is there objection to the request of the Senator from New York?

Mr. EASTLAND. Mr. President, reserving the right to object, what was the unanimous-consent request?

The PRESIDING OFFICER. The Senator wishes to add the name of the Senator from Wisconsin as a cosponsor of the bill.

Mr. JAVITS. Mr. President, I also asked unanimous consent, for the benefit of the Senator from Mississippi, to have the text of the bill printed, as well as a memorandum of explanation.

Mr. EASTLAND. Printed in the RECORD?

Mr. JAVITS. Printed in the RECORD. The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none. The bill will be received and appropriately referred; and without objection, the bill and memorandum will be printed in the RECORD, and the name of the Senator from Wisconsin [Mr. PROXMIER] will be added as a cosponsor of the bill.

The bill (S. 3080) to supplement and revise the laws prescribing restrictions against conflicts of interest applicable to employees of the executive branch of the Government of the United States, and for other purposes, introduced by Mr. JAVITS (for himself and Mr. KEATING), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TABLE OF CONTENTS

Title I—Prohibited conduct, administration, and procedure

- Sec. 1. Preamble; declaration of policy and purpose.
- Sec. 2. Definitions.
- Sec. 3. Acts affecting a personal economic interest.
- Sec. 4. Assisting in transactions involving the Government.
- Sec. 5. Compensation for regular Government employees from non-Government sources.
- Sec. 6. Gifts.
- Sec. 7. Abuse of office.
- Sec. 8. Postemployment.
- Sec. 9. Illegal payments.
- Sec. 10. Administration.
- Sec. 11. Preventive measures.
- Sec. 12. Remedies; civil penalties; procedures.

Title II—Criminal penalties

- Sec. 21. Acts in violation of Executive Conflict of Interest Act.

Title III—Amendment and repeal of existing laws

- Sec. 31. Amendment of title 18, United States Code, sections 216 and 1914.
- Sec. 32. Amendment of title 18, United States Code, sections 281, 283, and 434.
- Sec. 33. Amendment of title 18, United States Code, section 284.
- Sec. 34. Amendment of title 22, United States Code, section 1792.
- Sec. 35. Amendment of title 5, United States Code, section 30r(d).
- Sec. 36. Repeal of particular substantive restraints.
- Sec. 37. Repeal of particular substantive restraints applicable to retired officers.
- Sec. 38. Repeal of exemptions from particular conflict-of-interest statutes.

Title IV—Miscellaneous provisions

- Sec. 41. Short title.
- Sec. 42. Effective date.

TITLE I—PROHIBITED CONDUCT, ADMINISTRATION AND PROCEDURE

§ 1. Preamble; declaration of policy and purpose

(a) The proper operation of a democratic government requires that officials be independent and impartial; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. The attainment of one or more of these ends is impaired whenever there exists, or appears to exist, an actual or potential conflict between the private interests of a government employee and his duties as an official. The public interest, therefore, requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to employee conduct in situations where actual or potential conflicts exist.

(b) It is also fundamental to the effectiveness of democratic government that, to the maximum extent possible, the most qualified individuals in the society serve its government. Accordingly, legal protections against conflicts of interest must be so designed as not unnecessarily or unreasonably to impede the recruitment and retention by the government of those men and women who are most qualified to serve it. An essential principle underlying the staffing of our governmental structure is that its employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where actual or potential conflicts with the responsibility of such employees to the public cannot be avoided.

(c) It is the policy and purpose of this Act to promote and balance the dual objectives of protecting Government integrity and of facilitating the recruitment and retention of the personnel needed by Government, by prescribing essential restrictions against conflicts of interest in the executive branch of the Government without creating unnecessary barriers to public service.

§ 2. Definitions

Unless the context of this Act otherwise clearly requires, for purposes of this Act the terms defined in this section shall have the respective meanings hereinafter set forth. The terms defined in this section include: "agency"; "agency head" and "head of an agency"; "assist"; "compensation"; "Government action"; "Government employee"; "intermittent Government employee"; "participate"; "person"; "regular Government employee"; "responsibility"; "State"; "thing of economic value"; and "transaction involving the Government".

(a) "Agency" means—

- (1) the Executive Office of the President;
- (2) an executive department;
- (3) an independent establishment within the executive branch; and
- (4) a Government corporation.

For purposes of this subsection (a)—

(i) the executive departments are the Departments of State; Defense; Treasury; Justice; Post Office; Interior; Agriculture; Commerce; Labor; and Health, Education, and Welfare; and

(ii) "independent establishment within the executive branch" means any establishment, commission, board, committee or other unincorporated instrumentality of the United States which is not—

- (A) part of an executive department or Government corporation; or
- (B) part of the legislative or judicial branches of the United States.

(iii) "Government corporation" means any corporation which is either defined as a "wholly owned Government corporation" in the Government Corporations Control Act of 1946 or is designated as a Government

corporation for purposes of this Act by the President by regulations issued pursuant to section 10.

(b) "Agency head" and "head of an agency" mean the chief executive officer of an agency, who shall be the chairman in the case of an independent establishment which is a commission, board, or committee. The Secretary of Defense may delegate to the Secretaries of the Army, the Navy, and Air Force such of his responsibilities as an agency head as he may deem appropriate.

(c) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to, another person with knowledge that such action is of help, aid, advice, or assistance to such person and with intent so to assist such person.

(d) "Compensation" means any thing of economic value, however designated, which is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person or to the United States.

(e) "Government action" means any action on the part of the executive branch of the United States, including, but not limited to—

(1) any decision, determination, finding, ruling, or order, including the judgment or verdict of a military court or board; and
(2) any grant, payment, award, license, contract, transaction, sanction or approval, or the denial thereof, or failure to act with respect thereto.

(f) "Government employee" means any individual who is—

(1) appointed by one of the following acting in his official capacity—

(A) the President of the United States, or
(B) a person who qualifies as an employee under this definition; and

(2) engaged in the performance of a Federal function under authority of the Constitution, an Act of Congress, or an Executive act; and

(3) under the supervision or authority of one of the persons listed in (A) or (B) under (1).

Notwithstanding the foregoing, the term "Government employee" shall not include any of the following—

(i) officers and employees in the legislative and judicial branches of the United States;

(ii) employees of the District of Columbia;

(iii) employees of corporations other than Government corporations as defined in subsection (a) (iii) of this section; and

(iv) a reserve of the Armed Forces, when he is not on active duty and is not otherwise a Government employee.

An individual shall not be deemed an employee solely by reason of his receipt of a pension, disability payments, or other payments not made for current services, or by reason of his being subject to recall to active service.

Every Government employee shall be deemed either "intermittent" or "regular", as determined by the definitions contained in subsections (g) and (j), respectively, of this section.

(g) "Intermittent Government employee" means any Government employee who has performed services as such employee on not more than fifty-two working days (which shall not include Saturdays, Sundays, and holidays) out of the preceding three hundred and sixty-five calendar days: *Provided, however, That—*

(1) the President may issue an order increasing to not more than one hundred and thirty days the number of working days within a three hundred and sixty-five calendar day period on which a particular Government employee may perform services while still being classified as an intermittent Government employee for purposes of this Act: *Provided, That* the President shall make a determination that the national interest

requires the retention of such employee's services during a further specified period. A statement of the pertinent facts and of the President's determination of national interest shall be published in the Federal Register;

(2) a Reserve of the Armed Forces, unless otherwise a regular Government employee, shall be classified as an intermittent Government employee for purposes of this Act while on active duty solely for training, irrespective of the number of working days of such training;

(3) irrespective of the fact he has performed services on less than fifty-two working days, a Government employee shall be deemed a regular Government employee, as defined in subsection (j) of this section, and not an intermittent Government employee, if—

(A) he was appointed to a position calling for regular and continuing full-time services, and

(B) his appointment did not evidence an intent that his services would be for a period of less than one hundred and thirty working days in the three hundred and sixty-five calendar day period following such appointment.

The termination of any particular term of employment of an intermittent Government employee shall take effect on the day when the earliest of the following events occurs:

(i) He becomes a regular Government employee, as defined in subsection (j) of this section;

(ii) He resigns, retires, or is dismissed, or the termination of his status is otherwise clearly evidenced; or

(iii) Three hundred and sixty-five calendar days shall have elapsed since the last working day on which he shall have performed services as an intermittent Government employee, unless his appointment was expressly for a longer period.

An intermittent Government employee shall be in such status on days on which he performs no services as well as days on which he performs services.

(h) "Participate," in connection with a transaction involving the Government, means to participate in Government action or a proceeding personally and substantially as a Government employee, through approval, disapproval, recommendation, decision, the rendering of advice, investigation, or otherwise.

(i) "Person" means any—

(1) individual;

(2) partnership, association, corporation, firm, institution, trust, foundation, or other entity (other than the United States or an agency), whether or not operated for profit;

(3) State or municipality of the United States or any subdivision thereof, including public districts and authorities; and

(4) foreign country or subdivision thereof.

(j) "Regular Government employee" means any Government employee other than an intermittent Government employee, as defined in subsection (g) of this section. The termination of any particular term of employment of a regular Government employee shall take effect when he resigns, retires, or is dismissed, or the termination of his status is otherwise clearly evidenced.

(k) "Responsibility," in connection with a transaction involving the Government, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, effectively to approve, disapprove, or otherwise direct Government action in respect of such transaction.

(l) "State" means any State of the United States and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(m) "Thing of economic value" means any money or other thing having economic

value, and includes, without limiting the generality of the foregoing—

(1) any loan, property interest, interest in a contract, or other chose in action, and any employment or other arrangement involving a right to compensation;

(2) any option to obtain a thing of economic value, irrespective of the conditions to the exercise of such option; and

(3) any promise or undertaking for the present or future delivery or procurement of a thing of economic value.

In the case of an option, promise, or undertaking, the time of receipt of the thing of economic value shall be deemed to be, respectively, the time the right to the option becomes fixed, irrespective of the conditions to its exercise, and the time the promise or undertaking is made, irrespective of the conditions to its performance.

(n) "Transaction involving the Government" means any proceeding, application, submission, request for a ruling, or other determination, contract, claim, case, or other such particular matter—

(1) which the Government employee or former Government employee in question believes, or has reason to believe, is, or will be, the subject of Government action; or

(2) in or to which the United States is a party; or

(3) in which the United States has a direct and substantial proprietary interest.

§ 3. Acts affecting a personal economic interest

(a) ECONOMIC INTERESTS OF A GOVERNMENT EMPLOYEE.—No Government employee shall participate in a transaction involving the Government in the consequences of which he has a substantial economic interest of which he may reasonably be expected to know.

(b) ECONOMIC INTERESTS OF PERSONS IN WHICH A GOVERNMENT EMPLOYEE HAS AN INTEREST.—No Government employee shall participate in a transaction involving the Government in the consequences of which, to his actual knowledge, any of the following persons has a direct and substantial economic interest:

(1) His spouse or child; or

(2) Any person in which he has a substantial economic interest of which he may reasonably be expected to know; or

(3) Any person of which he is an officer, director, trustee, partner, or employee; or

(4) Any person with whom he is negotiating or has any arrangement concerning prospective employment; or

(5) Any person who is a party to an existing contract with such Government employee or an obligee of such Government employee as to a thing of economic value and who, by reason thereof, is in a position to affect directly and substantially such employee's economic interests.

(c) DISQUALIFICATION.—Every Government employee shall disqualify himself from participating in a transaction involving the Government when a violation of subsection (a) or (b) would otherwise result. The procedures for such disqualification shall be established by regulations issued pursuant to section 10.

(d) SUBSTANTIAL ECONOMIC INTEREST.—The term "substantial economic interest" may be defined by regulations issued by the President pursuant to section 10, but the term shall not include—

(1) the interest of a Government employee in his grade, salary, or other matters arising solely from his Government employment;

(2) the interest of a Government employee, or of a person referred to in subsection (b) solely as a member of the general public, or of any significant economic or other segment of the general public.

(e) PRESIDENTIAL EXEMPTION.—The President may issue an order suspending the operation of subsections (a) and (b), in whole

or in part, as to a particular employee with respect to transactions involving the Government of a particular category or in connection with a particular assignment, provided that the President shall make a determination that under all the circumstances the national interest in such employee's participation exceeds the public interest in his disqualification. A full statement of the pertinent facts and of the President's determination of national interest shall be published in the Federal Register.

§ 4. Assisting in transactions involving the Government

(a) **GENERAL RULE FOR ALL EMPLOYEES.**—Except in the course of his official duties or incident thereto, no Government employee shall assist another person, whether or not for compensation, in any transaction involving the Government—

(1) in which he has at any time participated; or

(2) if such transaction involving the Government is or has been under his official responsibility at any time within a period of two years preceding such assistance.

(b) **ADDITIONAL GENERAL RULE FOR REGULAR EMPLOYEES.**—Except in the course of his official duties or incident thereto, no regular Government employee shall—

(1) assist another person for compensation in any transaction involving the Government;

(2) assist another person by representing him as his agent or attorney, whether or not for compensation, in any transaction, involving the Government.

(c) **NO SHARING IN COMPENSATION.**—No Government employee shall share in any compensation received by another person for assistance which such Government employee is prohibited from rendering pursuant to subsection (a) or (b).

(d) **PARTNERSHIPS.**—No partnership of which a Government employee is a partner, and no partner or employee of such a partnership, shall assist another person in any transaction involving the Government if such Government employee is prohibited from doing so by subsection (a).

(e) **PERMITTED EXCEPTIONS.**—(1) Nothing in this section shall prevent a Government employee, subject to conditions or limitations set forth in regulations issued pursuant to section 10, from assisting, in a transaction involving the Government—

(A) his parent, spouse, or child, or any thereof for whom he is serving as guardian, executor, administrator, trustee, or other personal fiduciary;

(B) a person other than his parent, spouse, or child for whom he is serving as guardian, executor, administrator, trustee, or other personal fiduciary;

(C) another Government employee involved in disciplinary, loyalty, or other personnel administration proceedings; or

(D) another person in the performance of work under a contract with or for the benefit of the United States:

Provided, however, That—

(E) in the case of clauses (A) and (B), such Government employee shall not have at any time participated in such transaction, nor, in the case of clause (B), shall such transaction have been under his official responsibility; and

(F) in the case of clauses (A), (B), (C), and (D), the circumstances of the assistance shall have been disclosed to the head of the employee's agency and approved by him in advance of the assistance; and

(G) in the case of clause (D), the head of such employee's agency shall have certified in writing that in his opinion the national interest will be promoted by permitting the special knowledge or skills of such Government employee to be made available to assist such other person in connection with such performance.

(2) Nothing in this section shall prevent a Government employee from giving testimony under oath or from making statements required to be made under penalty of perjury or contempt.

§ 5. Compensation for regular Government employees from non-Government sources

(a) **UNCOMPENSATED EMPLOYEES.**—For purposes of this section the term "regular Government employee" shall not include any Government employee who, in accordance with the terms of his appointment, is serving without compensation from the United States or is receiving from the United States only reimbursement of expenses incurred or a predetermined allowance for such expenses.

(b) **PAYMENTS FOR SERVICES TO THE UNITED STATES.**—No regular Government employee shall receive any thing of economic value, other than his compensation from the United States, for or in consideration of personal services rendered or to be rendered to or for the United States. Any thing of economic value received by a regular Government employee prior to or subsequent to his Government employment shall be presumed, in the absence of a showing to the contrary by a clear preponderance of evidence, not to be for, or in consideration of, personal services rendered or to be rendered to or for the United States.

(c) **COMPENSATION FOR SERVICES TO OTHERS.**—No regular Government employee shall receive any thing of economic value (other than his compensation from the United States) in consideration of personal services rendered, or to be rendered, to or for any person during the term of his Government employment unless such services meet each of the following qualifications:

(1) The services are bona fide and are actually performed by such employee;

(2) The services are not within the course of his official duties;

(3) The services are not prohibited by section 4 or by applicable laws or regulations governing non-Government employment for such employee; and

(4) The services are neither performed for nor compensated by any person from whom such employee would be prohibited by section 6(b) from receiving a gift; or, alternatively, the services and compensation are fully disclosed in writing to the head of the employee's agency and are approved in writing by him.

(d) **PAYMENTS FOR FUTURE SERVICES TO OTHERS.**—No regular Government employee shall receive, directly or indirectly, any thing of economic value during the term of his Government employment in consideration of personal services to be rendered to or for any person subsequent to the term or such employment. Nothing contained in this subsection (d) shall be deemed to prevent a Government employee from entering into a contract for prospective employment during the term of his Government employment.

(e) **COMPENSATION FROM LOCAL GOVERNMENTS.**—Nothing contained in this section shall prevent a Government employee from receiving compensation contributed out of the treasury of any State, county, or municipality if—

(1) the compensation is received pursuant to arrangements entered into between such State, county, or municipality and such employee's agency; or

(2) the compensation and the services for which it is received are fully disclosed in writing to the head of the employee's agency and are approved in writing by him.

(f) **CONTINUATION OF CERTAIN PENSION AND OTHER PLANS.**—(1) Nothing contained in this section shall prevent a Government employee's continuation in a bona fide pension, retirement, group life, health, or accident insurance, or other employee welfare or bene-

fit plan maintained by a former employer but to which such former employer makes no contributions on behalf of such employee in respect of the period of his Government employment.

(2) Nothing contained in this section shall prevent a Government employee's continuation in a bona fide plan, maintained by a former employer and to which such former employer makes contributions on behalf of such employee, in the case of—

(A) a pension or retirement plan qualified under the provisions of the Internal Revenue Code, or

(B) a group life, health, or accident insurance plan: *Provided*, That the contributions by such employer are not made for a period longer than five consecutive years of Government employment (or an aggregate of five years out of the preceding ten).

(3) Nothing contained in this section shall require the termination of the rights of a Government employee acquired under a bona fide profit-sharing or stock bonus plan maintained by a former employer and qualified under the provisions of the Internal Revenue Code: *Provided*, That no contributions are made by such former employer on behalf of the Government employee based on profits attributable to any portion of the period of his Government employment.

(4) The provisions of this subsection (f) shall be subject to any additional conditions or limitations, including limitations on maximum amounts, set forth in regulations issued pursuant to section 10.

(g) **TRAVEL AND RELATED EXPENSES.**—Travel and related expenses received other than from the United States shall be deemed to be for or in consideration of personal services rendered to or for a person only to the extent provided in regulations issued pursuant to section 10.

§ 6. Gifts

(a) **GENERAL RULE FOR ALL EMPLOYEES.**—No Government employee shall receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from any person if such Government employee has reason to believe the donor would not give the gift, gratuity, or favor but for such employee's office or position within the Government.

(b) **ADDITIONAL GENERAL RULE FOR REGULAR EMPLOYEES.**—No regular Government employee shall receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from any person, or from any officer or director of such person, if such regular Government employee has reason to believe such person—

(1) has or is seeking to obtain contractual or other business or financial relationships with such employee's agency; or

(2) conducts operations or activities which are regulated by such employee's agency; or

(3) has interests which may be substantially affected by such employee's performance or nonperformance of official duty.

(c) **PERMITTED EXCEPTIONS.**—Exceptions to subsections (a) and (b) may be made by regulations issued pursuant to section 10 in situations where the circumstances do not lead to the inference that the official judgment or action of the Government employee receiving, directly or indirectly, the gift, gratuity, or favor was intended to be influenced thereby.

§ 7. Abuse of office

Except in the course of his official duties or incident thereto, no Government employee shall, in his relationships with any person specified in the succeeding sentence, use the power or authority of his office or position within the Government in a manner intended to induce or coerce such other person to provide such Government employee or any other person with any thing of

economic value, directly or indirectly. This section shall apply to relationships with any person, or any officer or director of such person, from whom such Government employee, if he were a regular Government employee, would be prohibited by section 6(b) from receiving a gift.

§ 8. Postemployment

(a) **GENERAL RULE.**—No former Government employee shall at any time subsequent to his Government employment assist another person, whether or not for compensation, in any transaction involving the Government—

(1) in which he at any time participated during his Government employment; or

(2) if such transaction involving the Government was under his official responsibility as a Government employee at any time within a period of two years preceding such assistance.

(b) **NO SHARING IN COMPENSATION.**—No former Government employee shall share in any compensation received by another person for assistance which such former Government employee is prohibited from rendering by subsection (a).

(c) **PARTNERSHIPS.**—(1) No partnership of which a former Government employee is a partner, and no partner or employee of such a partnership, shall, for a period of two years following the termination of his Government employment, assist another person in any transaction involving the Government in which such former Government employee at any time participated during his Government employment. For purposes of this subsection (c)(1), the termination of the former Government employee's employment with the agency by which he was employed when he so participated shall be deemed to be the termination of his Government employment.

(2) Whenever subsection (c)(1) would be applicable but for the expiration of the period of two years referred to therein, the circumstances of the former Government employee's participation in the transaction during his Government employment, if the individuals acting for the partnership are aware of such participation, shall be disclosed to the agency principally involved in the transaction involving the Government, and an affidavit of such former employee to the effect that he has not assisted in such transaction involving the Government shall be furnished to such agency.

(d) **SPECIAL RULE FOR COMPUTATION OF TWO-YEAR PERIOD FOR CERTAIN FORMER INTERMITTENT EMPLOYEES.**—For purposes of this section, a former intermittent Government employee whose employment terminated under clause (iii) of section 2(g) shall be deemed to have terminated such employment on the last working day on which he performed services as an intermittent Government employee.

(e) **PERSONS FORMERLY ON ACTIVE DUTY AS COMMISSIONED OFFICERS OF ARMED FORCES.**—The President shall, in furtherance of this section 8, issue regulations of the nature herein described applicable to persons who have been commissioned officers on active duty in one of the armed forces of the United States. Such regulations shall have the effect of prohibiting such persons, for the periods therein specified, from personally dealing with personnel of the Department of Defense, or of such units thereof as may be specified in such regulations, with the purpose of assisting in the sale of anything, including services, to the United States through the Department of Defense or such units thereof as may be specified in such regulations. The retirement pay of any retired commissioned officer who violates such regulations shall be terminated pursuant to the regulations issued hereunder for the periods therein specified.

(f) **PERMITTED EXCEPTIONS.**—The permitted exceptions applicable to Government em-

ployees under section 4(e) shall also be applicable to former Government employees under this section 8, subject to conditions or limitations set forth in regulations issued pursuant to section 10. For purposes of this section 8, references in such section 4(e) to the Government employee providing assistance shall be deemed to be to the former Government employee, and references to his agency shall be deemed to be to his former agency.

§ 9. Illegal payments

(a) **PAYMENTS AS COMPENSATION, ETC.**—No person shall give, pay, loan, transfer, or deliver, directly or indirectly, to any other person any thing of economic value believing or having reason to believe that there exist circumstances making the receipt thereof a violation of section 4, 5, or 8.

(b) **GIFTS.**—No person shall give, transfer, or deliver, directly or indirectly, to a Government employee any thing of economic value as a gift, gratuity, or favor if either—

(1) such person would not give the gift, gratuity, or favor but for such employee's office or position within the Government; or

(2) such person is in a status specified in clause (1), (2), or (3) of section 6(b).

Exceptions to this subsection (b) may be made by regulations issued pursuant to section 10 in situations referred to in section 6(c).

§ 10. Administration

(a) **RESPONSIBILITY OF THE PRESIDENT.**—(1) The President shall be responsible for the establishment of appropriate standards to protect against actual or potential conflicts of interest on the part of Government employees and for the administration and enforcement of this Act and the regulations and orders issued hereunder.

(2) The President may, and shall do so when required by this Act, issue regulations extending, supplementing, implementing, or interpreting the provisions of this Act. Such regulations shall take precedence over any regulations issued by agency heads pursuant to subsection (c).

(3) The President shall have particular responsibility for the enforcement of this Act as applied to employees of the Executive Office of the President and to agency heads, and for this purpose the President shall have all the powers of an agency head.

(4) The President may conduct investigations of facts, condition or conditions, practices, or other matters in carrying out his responsibilities and powers under this subsection (a) and in obtaining information to serve as a basis for recommending further legislation related to the purposes of this Act. In connection with any such investigation the President shall have all the powers with respect to oaths, affirmations, subpoenas, and witnesses as are provided in section 12(b)(2). The President may delegate any or all of his powers under this subsection (a)(4) to the Administrator referred to in subsection (b) or to others, either generally or in particular instances.

(b) **EXECUTIVE CONFLICT OF INTEREST ACT ADMINISTRATOR.**—(1) the President shall designate an official from within the Executive Office of the President or create an office within the Executive Office of the President (such official or the head of such office being hereinafter referred to as the "Administrator") to perform the following functions:

(A) To assist the President in carrying out his responsibilities under subsection (a);

(B) To receive copies of all regulations issued by agency heads pursuant to subsection (c), to analyze the same, and make recommendations to agency heads with respect thereto;

(C) To receive reports from agencies and to collect information with respect to, and conduct studies of, personal conflicts of in-

terest of Government employees within the executive branch;

(D) To consult with the Attorney General, the Chairman of the Civil Service Commission, the Comptroller General, and other appropriate officials with respect to conflict-of-interest matters affecting more than one agency;

(E) To consult with agency heads, and with appropriate officers designated by them, as to the administration of this Act within their respective agencies and the regulations issued hereunder applicable to their respective agencies;

(F) To give advice with respect to the application of this Act and regulations issued hereunder, when so requested by the President or agency heads;

(G) To undertake and conduct, in conjunction with agency heads, a study of the extent to which any of the principles of this Act should be made applicable to persons and to the employees of persons having contracts, subcontracts, licenses, or similar relationships with or from the United States; and

(H) To provide reports and information to the President and the Congress concerning the administration of this Act and conflict-of-interest matters generally.

(2) The Administrator is authorized to employ personnel and expend funds for the purposes of this Act, to the extent of any appropriations made for the purposes hereof.

(c) **RESPONSIBILITY OF AGENCY HEADS.**—(1) Each agency head shall be responsible for the establishment of appropriate standards within his agency to protect against actual or potential conflicts of interest on the part of employees of his agency, and for the administration and enforcement within his agency of this Act and the regulations and orders issued hereunder.

(2) Each agency head may, subject to the regulations issued by the President under subsection (a)(2), issue regulations extending, supplementing, implementing, or interpreting the provisions of this Act as applied to his agency. He shall file copies of all such regulations with the Administrator.

(3) Each agency head may conduct investigations of facts, conditions, practices, or other matters in carrying out his responsibilities and powers under this subsection (c). In connection with any such investigation the agency head shall have all the powers with respect to oaths, affirmations, subpoenas, and witnesses as are provided in section 12(b)(2). The agency head may delegate any or all of his powers under this subsection (c)(3) to any officer designated by him, either generally or in particular instances.

§ 11. Preventive measures

The head of an agency may, and shall do so if so provided in regulations issued by the President, require—

(a) individuals entering Government employment with such agency and, periodically, the employees or particular categories of employees of such agency, to sign a statement that they have read an appropriate summary of the rules established by this Act and the regulations issued hereunder;

(b) employees of such agency, or particular categories thereof, to report periodically as to their non-Government employment or self-employment, if any;

(c) representatives of other persons before an agency to certify that, to the best of their knowledge, their representation will not violate section 4 or 8 or the regulations issued thereunder; and

(d) persons who are principals in transactions involving the Government to certify that, to the best of their knowledge, they have not received assistance under circumstances which would violate section 4 or 8 or the regulations issued thereunder.

§ 12. Remedies; civil penalties; procedure

(a) ADMINISTRATIVE ENFORCEMENT AS TO CURRENT GOVERNMENT EMPLOYEES.—

(1) Remedies and Civil Penalties: The head of an agency may dismiss, suspend, or take such other action as may be appropriate in the circumstances in respect of any Government employee of his agency upon finding that such employee has violated this Act or regulations promulgated hereunder. Such action may include the imposition of conditions of the nature described in subsection (b) (1).

(2) Procedure: The procedures for any such action shall correspond to those applicable for disciplinary action for employee misconduct generally, and any such action shall be subject to judicial review to the extent provided by law for disciplinary action for misconduct of employees of the same category and grade.

(b) ADMINISTRATIVE ENFORCEMENT AS TO FORMER GOVERNMENT EMPLOYEES AND OTHERS.—

(1) Remedies and Civil Penalties: The head of an agency, upon finding that any former employee of such agency or any other person has violated any provision of this Act, may, in addition to any other powers the head of such agency may have, bar or impose reasonable conditions upon—

(A) the appearance before such agency of such former employee or other person, and
(B) the conduct, or negotiation or competition for, business with such agency by such former employee or other person, for such period of time as may reasonably be necessary or appropriate to effectuate the purposes of this Act.

(2) Procedure:

(A) Hearings.—Findings of violations referred to in subsection (b) (1) shall be made on the record after notice and hearing, conducted in accordance with the provisions governing adjudication in title 5, United States Code, secs. 1005, 1006, 1007, 1008, and 1011 (Administrative Procedure Act). For the purposes of such hearing any agency head, or any officer designated by it, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the agency head finds relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing. Witnesses summoned by the agency head to appear shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(B) Judicial review.—(1) Any party to a proceeding under subsection (b) aggrieved by an order issued by the agency head pursuant hereto, may obtain a review of such order in the court of appeals of the United States for any circuit wherein said party is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court within sixty days after the order of the agency upon a written petition praying that such order be modified or set aside in whole or in part.

(i) A copy of such petition shall forthwith be transmitted by the clerk of the court to the agency head involved, and thereupon such agency head shall file with the court the record upon which the order complained of was entered. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part.

(iii) No objection to the order of the agency head shall be considered by the court unless such objection shall have been urged before the agency or there is reasonable ground for failure to do so.

(iv) The findings of the agency head as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material in that there were reasonable grounds for failure to adduce such evidence in the proceedings before the agency, the court may order such additional evidence to be taken before the agency and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper.

(v) The agency head may modify his findings as to the facts by reason of the additional evidence so taken and shall file with the court such modified or new findings which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside in whole or in part, any such order of the agency head, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 346 and 347 of title 28. The commencement of proceedings for review under this subsection shall not, unless specifically ordered by the court, operate as a stay of the agency head's order.

(c) RESCISSION OF GOVERNMENT ACTION.—The President or any agency head may cancel or rescind any Government action without contractual liability to the United States where—

(1) he has found that a violation of this Act has substantially influenced such Government action; and

(2) in his judgment the interests of the United States so require under all of the circumstances, including the position of innocent third parties.

The finding referred to in clause (1) shall be made in accordance with the procedures set forth in subsection (b) (2) and shall be subject to judicial review in accordance with the provisions of subsection (b) (2) (B): *Provided*, That the President or such agency head may suspend Government action pending the determination, pursuant to this subsection, of the merits of the controversy. The exercise of judgment pursuant to clause (2) of this subsection shall not be subject to judicial review.

(d) CIVIL REMEDY FOR DAMAGES AGAINST EMPLOYEES AND FORMER EMPLOYEES.—The Attorney General of the United States may bring a civil action in any district court of the United States against any Government employee or former Government employee who shall, to his economic advantage, have acted in violation of this Act, and in such action may recover on behalf of the United States, in partial reimbursement of the United States for its expenses of administering this Act, damages in an amount equal to three times the amount of such economic advantage.

(e) CIVIL PENALTIES FOR ILLEGAL PAYMENTS.—Any person who shall violate section 9 shall pay a civil penalty of not more than \$5,000, in partial reimbursement of the United States for its expenses of administering this Act. The Government employee or former Government employee involved shall not be subject to prosecution under title 18, United States Code section 2, or title 18, United States Code, section 371, or any other provision of law dealing with criminal conspiracy, by reason of the receipt of any such payment.

(f) PUBLICATION OF CERTAIN FINDINGS AND DECISIONS.—Whenever the head of any agency, or the President, exercises the authority conferred by subsections (a), (b), or (c) of this section, copies of the findings and decision therein shall be filed with the President and shall be published at least once

each year as part of a volume collecting such findings and opinions. Such volumes shall be made available for public inspection and shall also be made available for distribution or sale to interested persons.

(g) INTERESTS OF NATIONAL SECURITY.—When any provision of this Act requires publication of information and the President finds that publication of part or all of such information is inconsistent with national security, he may suspend the requirement of such publication to the extent and for such period of time as he shall deem essential for reasons of national security.

(h) STATUTE OF LIMITATIONS.—No administrative or other action under subsections (b), (c), (d), or (e) of this section to enforce any provision of this Act shall be commenced after the expiration of six years following the occurrence of the alleged violation.

TITLE II—CRIMINAL PENALTIES

§ 21. Acts in violation of Executive Conflict of Interest Act

Title 18 of the United States Code is amended by adding a new chapter thereto, to be designed chapter 16 and reading as follows:

"Chapter 16—Conflicts of Interest

"§ 301. Acts in violation of Executive Conflict of Interest Act

"Any person who shall purposely or knowingly violate any provision of the Executive Conflict of Interest Act shall be fined not more than \$10,000, or imprisoned for not more than one year, or both. For purposes of this section, the terms 'purposely' and 'knowingly' shall have the respective meanings set forth in subsections (a) and (b):

"(a) 'Purposely': A person acts purposely with respect to a material element of an offense when—

"(1) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and

"(2) if the element involves the attendant circumstances, he knows of the existence of such circumstances.

"(b) 'Knowingly': A person acts knowingly with respect to a material element of an offense when—

"(1) if the element involves the nature of his conduct or the attendant circumstances, he knows that his conduct is of that nature or he knows of the existence of such circumstances; and

"(2) if the element involves a result of his conduct, he knows that his conduct will necessarily cause such a result."

TITLE III—AMENDMENT AND REPEAL OF EXISTING LAWS

§ 31. Amendment of title 18, United States Code, sections 216 and 1914

Section 216 of chapter 11 and section 1914 of chapter 93 of title 18 of the United States Code are each amended by adding the following as a new paragraph to precede the present text of each such section:

"From and after the effective date of the Executive Conflict of Interest Act, this section shall not apply to (1) any person who is a Government employee as defined in section 2(f) of that Act, and (2) any act of another person which is directed toward such a Government employee."

§ 32. Amendment of title 18, United States Code, sections 281, 283, and 434

Sections 281 and 283 of chapter 15 of title 18 of the United States Code are each amended by deleting the second paragraph thereof. Each of such sections is further amended and section 434 of chapter 23 of title 18 of the United States Code is amended by adding the following as a new paragraph to precede the present text of each such section:

"From and after the effective date of the Executive Conflict of Interest Act, this sec-

tion shall not apply to any person who is a Government employee as defined in section 2(f) of that Act."

§ 33. Amendment of title 18, United States Code, section 284

Section 284 of chapter 15 of title 18 of the United States Code is amended by adding the following as a new paragraph to precede the present text of such section:

"From and after the effective date of the Executive Conflict of Interest Act, this section shall not apply to any person who has been a Government employee as defined in section 2(f) of that Act."

§ 34. Amendment of title 22, United States Code, section 1792(a)

Section 532(a) of the Mutual Security Act of 1954 (68 Stat. 859), as amended by section 10(d) of the Act of July 18, 1956 (70 Stat. 561; 22 U.S.C. 1792(a)), is amended to read as follows:

"(a) Service of an individual as a member of the Board established pursuant to section 308 of this Act or as an expert or consultant under section 530(a) shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 6 of the Act of May 22, 1920 (5 U.S.C. 715), or section 212 of the Act of June 30, 1932 (5 U.S.C. 59a), or any other Federal law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities. Contracts for the employment of retired military personnel with specialized research and development experience, not to exceed ten in number, as experts or consultants under section 530(a), may be renewed annually, notwithstanding section 15 of the Act of August 2, 1946 (5 U.S.C. 55(a))."

§ 35. Amendment of title 5, United States Code, section 30r(d)

Section 29(d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(d)), is amended to read as follows:

"(d) When he is not on active duty, or when he is on active duty for training, a reserve is not considered to be an officer or employee of the United States or a person holding an office of trust profit or discharging any official function under, or in connection with, the United States because of his appointment, oath, or status, or any duties or functions performed or pay or allowances received in that capacity: *Provided, however*, That a reserve on active duty for training shall be deemed an employee of the United States for purposes of the Executive Conflict of Interest Act."

§ 36. Repeal of particular substantive restraints

The following sections are repealed:

(a) Section 190 of the Revised Statutes (5 U.S.C. 99) (relating to postemployment prosecution of claims by employees in departments); and

(b) Section 244 of the Revised Statutes (5 U.S.C. 254) (relating to certain business interests of clerks in the Treasury Department);

§ 37. Repeal of particular substantive restraints applicable to retired officers

The following sections are repealed:

(a) Section 1309 of the Act of August 7, 1953 (67 Stat. 437; 5 U.S.C. 59c), (relating to loss of retirement pay by retired commissioned officers engaged in certain selling activities);

(b) Section 6112 of chapter 557 of title 10 of the United States Code (relating to the loss of pay or retirement pay by certain officers who sell naval supplies to the Navy Department).

§ 38. Repeal of exemptions from particular conflict-of-interests statutes

The following sections are repealed:

(a) Section 173(c) of chapter 7 of title 10 of the United States Code (providing certain conflicts exemptions for advisers to the Secretary of Defense);

(b) Section 1583(b) of chapter 81 of title 10 of the United States Code (authorizing conflicts exemptions for persons employed by the Secretary of Defense to serve without compensation);

(c) Section 5153(d) of chapter 513 of title 10 of the United States Code (providing certain conflicts exemptions for members of the Naval Research Advisory Committee);

(d) Section 807 of the Act of August 2, 1954 (68 Stat. 645; 12 U.S.C. 1701h) (providing certain conflicts exemptions for members of advisory committees of the Housing and Home Finance Agency);

(e) Section 5 of the Act of June 4, 1956 (70 Stat. 243; 16 U.S.C. 943) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the Great Lakes Fishery Act of 1956);

(f) Section 5 of the Act of September 7, 1950 (64 Stat. 778; 16 U.S.C. 954) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the Tuna Conventions Act of 1950);

(g) Section 5 of the Act of September 27, 1950 (64 Stat. 1068; 16 U.S.C. 984) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the Northwest Atlantic Fisheries Act of 1950);

(h) Section 5 of the Act of August 12, 1954 (68 Stat. 698; 16 U.S.C. 1024) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the North Pacific Fisheries Act of 1954);

(i) Section 1003 of the Act of September 2, 1958 (72 Stat. 1603; 20 U.S.C. 583) (providing certain conflicts exemptions for members of advisory committees and information councils appointed under the National Defense Education Act of 1958);

(j) Section 14(f) of the Act of May 10, 1950 (64 Stat. 154, 155; 42 U.S.C. 1873 (f)) (providing certain conflicts exemptions for members of the National Science Board and committees and commissions appointed under the National Science Foundation Act of 1950);

(k) Section 163 of the Atomic Energy Act of 1954 (68 Stat. 951), as amended by section 2 of the Act of September 21, 1959 (73 Stat. 574; 42 U.S.C. 2203) (providing certain conflicts exemptions for members of the General Advisory Committee and Advisory boards appointed under the Atomic Energy Act of 1954);

(l) Section 1(t) of the Act of June 19, 1951 (65 Stat. 87; 50 U.S.C. App. 463(a)) (providing certain conflicts exemptions for particular Selective Service officials);

(m) Section 113 of the Renegotiation Act of 1951 (65 Stat. 22), as amended by section 13 of the Act of August 1, 1956 (70 Stat. 792; 50 U.S.C. App. 1223) (providing certain conflicts exemptions for employees of departments and agencies to which the Renegotiation Act of 1951 is applicable and of the Renegotiation Board);

(n) Section 7(b)(4) of the Act of August 9, 1955 (69 Stat. 582; 50 U.S.C. App. 2160(b)(4)) (providing certain conflicts exemptions for persons serving without compensation under the Defense Production Act of 1950).

TITLE IV—MISCELLANEOUS PROVISIONS

§ 41. Short title

This Act shall be known and may be cited as the "Executive Conflict of Interest Act".

§ 42. Effective date

This Act shall take effect ninety days after the date of its enactment, except that section 37 shall not take effect until the effective date of the regulations issued by the President pursuant to section 8(e).

The memorandum of explanation presented by Mr. JAVITS is as follows:

TEXT OF THE OFFICIAL SUMMARY OF THE REPORT RELEASED TODAY BY THE SPECIAL COMMITTEE ON FEDERAL CONFLICT-OF-INTEREST LAWS OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

I. INTRODUCTION AND SHORT SUMMARY

We are today releasing a prepublication edition of a report based upon more than 2 years of study of the so-called conflict-of-interest laws of the Federal Government. Also, we expect that there will be introduced today in both Houses of Congress a proposed Executive Conflict-of-Interest Act, which has been drafted by this committee and which is designed to remedy the manifold defects of the present law. Our findings and recommendations, which are set forth in the report, are expressed in statutory form in the proposed act.

The report will be published in the fall by the Harvard University press.

This committee is issuing this prepublication mimeographed edition of its report so that it will be available at the public hearings on the topic of the conflict-of-interest laws which commenced on February 17, 1960, before the Antitrust Subcommittee of the Committee on the Judiciary of the House of Representatives. The House Judiciary Committee, under the chairmanship of Representative EMANUEL CELLER, of New York, has already made an important contribution to the wider understanding and improvement of this confused, but crucial, area of law and public administration. The public hearings, which have just opened, should further advance the cause of urgently needed reform. Accordingly, we have distributed some 200 mimeographed copies of a prepublication edition of the report to Members of Congress, the press and to various Federal departments and agencies.

This official summary has been prepared for the information and guidance of those interested persons to whom the report is not available and as a guide to the report.

A. Objectives

The report of the committee has two themes. The first is that ethical standards within the Federal Government must be beyond reproach, and that there must, accordingly, be effective regulation of conflicts of interest in Federal employment. The second is that the Federal Government must be in a position to obtain the personnel and information it needs to meet the demands of the 20th century.

These themes are coequal. Neither may be safely subordinated to the other. What is needed is balance in the pursuit of the two objectives. We need a long-run national policy which neither sacrifices governmental integrity for opportunism nor drowns practical staffing needs in moralism. We need a careful regulatory scheme that effectively restrains official conflicts of interest without generating pernicious side effects on recruitment.

The basic conclusion of the committee is that such a scheme can be worked out. The report and the proposed act contain a recommended new program for achieving this result.

B. Assessment of existing restraints

The committee has concluded that the legal and administrative machinery of the Federal Government for dealing with the problem of conflicts of interest is obsolete, inadequate for the protection of the Gov-

ernment, and a deterrent to the recruitment and retention of executive talent and some kinds of needed consultative talent.

1. **Obsolescence:** The statutory law—most of it a century old—is not broad enough to protect the Government against the manifold modern forms of conflict-of-interest. Most of the statutes were and are pointed at areas of risk that are no longer particularly significant, mainly the prosecution of Government claims. Today, with the greatly expanded regulatory functions of the Federal Government, applications for rulings, clearances, approvals, licenses, certifications, grants and other forms of Government action are far more significant in the daily operation of Government than the prosecution of claims. Several of the basic statutes now on the books do not concern themselves at all with these modern Governmental activities.

Other aspects of obsolescence in the present statutes are:

(a) Their focus of interest upon a class of lower ranking politically appointed clerks that has disappeared. The Government today obtains its manpower through a vast civil service, a top layer of short term political appointees, an increasing group of advisory and part-time personnel, and through an unlimited variety of contracts for services provided by non-Government personnel.

(b) Their failure to recognize internal procedures of modern government, such as the flexible processes of personnel administration available to assist in enforcement.

(c) Their lack of recognition of the facts of modern economic life, such as the existence of private pension plans.

(d) Their failure to recognize the essential blending of public and private endeavor in the modern American society, as illustrated by the partnership of government, industry, and educational institutions in the science field.

2. **Inadequate administration:** Partly by reason of the deficiencies in the statutory law, administration of the conflict-of-interest restraints has always been weak. The Government has failed to provide a rational, centralized, continuing, and effective machinery to deal with the problem. If the statutes presented a coordinated whole—a unified program—and if they imposed direct responsibility on the President to carry out that program, the central coordination and leadership missing in the past would improve. A well-administered program could, and should, guide the thousand good men as well as snare the one bad one.

3. **Uncertainty in interpretation:** Enacted fitfully over a 100-year span, the uncoordinated statutes are inconsistent, overlapping, and at critical points defy interpretation.

4. **The Congress:** Congress has done a useful and constructive job in its capacity as investigator. But the Senate confirming committees have seldom considered the overall issue of conflict of interests in relation to recruitment. The Armed Services Committee has applied a wavering standard of stock divestment, useful for certain purposes, but overemphasizing one single source of conflict-of-interest problems and having little bearing on the question of actual official conduct.

5. **Recruitment:** The main adverse effect of the present system is its deterrent effect on the recruitment and retention of executive talent and some kinds of consultative talent. The restrictions tend to encircle the Government with a barricade against the interflow of men and information at the very time in the Nation's history when such an interflow is most necessary.

C. Recommendations

The defects in the present law cannot be cured by tinkering. A thoroughgoing reconstruction is called for—a new program of controls designed for modern needs, providing for adequate administration, and

written as an integrated unit. The program must achieve a balance between the Nation's need for protection against conflicts of interest and its need for personnel.

The committee's basic recommendations are these:

1. Conflict-of-interest problems should be recognized and treated as an important, complex, and independent subject of attention and concern in the management of the governmental establishment.

2. The present scattered and uncoordinated statutes relating to conflicts of interest should be consolidated into a single unified act, with a common set of definitions and a consistent approach. Archaic provisions should be repealed.

3. The restraints contained in the present statutes should be greatly expanded in their scope by making them applicable to essentially all matters in which the public deals with the modern Federal Government.

4. Certain important restraints now covered in regulations, or not at all, should be included in the basic statutes, particularly restraints relating to receipt of gifts and coercive use of office.

5. The statutes should permit the retention by Government employees of certain security-oriented economic interests, such as continued participation in private pension plans.

6. Wherever it is safe, proper, and essential from the viewpoint of recruitment, the statutes should differentiate in treatment between regular employees and citizens who serve the Government only intermittently, for short periods, as advisers and consultants.

7. Regular, continuing, and effective enforcement of the law and regulations should be assured by emphasizing administrative remedies, rather than the clumsy criminal penalties of present law.

8. The statutes should create the framework for active and effective administration of the system of conflict-of-interest restraints, headed up with clear responsibility in the President. The President should designate, pursuant to the proposed act, an Administrator to assist him in this function.

9. In addition to the statutes themselves, there should be a second tier of restraints, consisting of Presidential regulations amplifying the statutes, and a third tier consisting of agency regulations tailored to the needs of particular agencies. The responsibility for day-to-day enforcement of the statutes and regulations should rest upon agency heads.

10. At all levels of administration, potential conflict-of-interest problems should be headed off by preventive action, such as, for example, orientation programs for all new employees to acquaint them with the applicable conflict-of-interest rules, and periodic reminders as to such rules.

11. There should be more effective prohibitions and penalties applicable to persons outside Government who induce or participate in conduct by Government employees in violation of the conflict-of-interest laws.

12. Each committee of the Senate considering a Presidential nominee for confirmation should be given the benefit of a full analysis, prepared by the Administrator in consultation with the Department of Justice, of any conflict-of-interest problems the nominee's particular situation may present. The confirming committee should give due consideration to this analysis and to the protections afforded by a modern and effectively administered overall scheme of conflict-of-interest restraints, if one is put into effect.

13. The Congress should initiate a thorough study of the conflict-of-interest problems of Members of Congress and employees of the legislative branch of the Federal Government.

The program advanced here will not solve the problem of conflict of interests in Fed-

eral employment. Like most real problems, this is one we must live with permanently, strive to mitigate, and adjust to. The program proposed, however, will do several things.

It meets the flaws of the present pattern of conflict-of-interest restraints—obsolescence, weakness of administration and faulty drafting. It would greatly strengthen the main policy of the conflict-of-interest statutes—preservation of the integrity of government. It would provide for an integrated and comprehensible system of standards and sanctions, together with an effective machinery for administering that system. It is grounded upon a realistic conception of the problem of conflicting interest as it appears in the modern setting of American government and society. It would make a significant contribution toward intelligent staffing of the Federal Government for world leadership.

II. MORE DETAILED STATEMENT OF THE PROGRAM

The committee recommends a thorough reconstruction of the entire legal and administrative machinery for dealing with the problem of conflict in interest in the executive branch of the Government. A summary of its principal recommendations appears below:

Recommendation 1

"Conflict-of-interest problems should be recognized and treated as an important, complex, and independent subject of attention and concern in the management of the governmental establishment."

Up until the present time, the subject of conflict in interest in the executive branch has been conceived of and dealt with only peripherally as an aspect of the general problem of ethics in Government. The fact is that its unique and complex nature and the variety of difficult problems it raises, particularly the problem of recruitment, demands that it be isolated and identified as an independent subject of governmental concern. Until it receives the consideration and attention which it deserves, the problem of conflict in interest cannot be adequately resolved.

Recommendation 2

"The present scattered and uncoordinated statutes relating to conflicts of interest should be consolidated into a single unified act, with a common set of definitions and a consistent approach. Archaic provisions should be repealed."

One of the principal shortcomings of the present law is that it is composed of many diverse elements scattered throughout the statute books and containing inconsistencies, overlapping and exemptions. The chaotic nature of the law is an impediment to understanding and a deterrent to recruitment.

The proposed act would unify the general law of conflict of interest in one comprehensive statute. Basic terms would be defined and then used consistently throughout. Examples of key terms, carefully defined at the outset and then, used consistently throughout the proposed act, include: "Government action"; "transaction involving the Government"; "assist"; "participate" and "responsibility".

The proposed act would treat the basic forms of conflict of interest in a logical progression. The first of the six substantive restraints deals with action by a Government employee in his official capacity in a matter in which he has a personal interest. The second deals with action by a Government employee in his private capacity in furtherance of an interest adverse to the Government. The third deals with receipt of pay from outside sources. The fourth deals with receipt of gifts from outside sources. The fifth deals with action as a Government official designed to induce payments from outside sources. The sixth

deals with postemployment activities in furtherance of an interest adverse to the Government.

As an example of the close integration of these sections, the second and sixth prohibitions are almost precisely parallel in their application to the intermittent Government employee and the recent former employee, reflecting the basic similarity of the two situations from the conflict-of-interest viewpoint.

The points in the total statutory scheme where it is important to supplement the statutes by regulation are clearly identified.

A few archaic statutory restraints superseded by the new act would be repealed. Others of the existing statutes would be amended to exclude from their coverage all executive branch employees (i.e., those covered by the new act).

Fourteen special exemption provisions contained in present law for members of various advisory committees and persons holding other part-time posts would be repealed, as being unnecessary in the light of the realistic approach of the new act to the intermittent employee problem. (See recommendation 6 below.)

Such a unified act would be more enforceable and more rational in its application. It would, by its very drafting, remedy many of the fundamental shortcomings of the present law.

Recommendation 3

"The restraints contained in the present statutes should be greatly expanded in their scope by making them applicable to essentially all matters in which the public deals with the modern Federal Government."

Six of the seven conflict-of-interest statutes on the books today have their roots in the problems of a century ago; they are directed primarily against corruption in the prosecution of claims against the government and the process of letting contracts by the Government. Claim prosecution and, to a lesser degree, procurement procedures have, however, been brought largely under control by administrative devices other than the conflict-of-interest statutes. In their places have grown up other risks that the draftsmen of the present statutes did not foresee and provide for. The proposed Act strikes hard at those deficiencies.

The proposed Act would extend the conflict-of-interest restraints to every kind of transaction in which today's Government engages with the private segment of the economy. The term "transaction involving the Government" is broadly defined as "any proceeding, application, submission, request for a ruling or other determination, contract, claim, case or other such particular matter" which will be the subject of Government action. The effect of this broad definition in expanding the scope of the present restraints would be very great.

In this respect recommendation 3 is consistent with one made by the Justice Department to Congress several years ago in response to a court decision holding that the present postemployment restraints apply only to assisting in the prosecution of claims against the Government for money or property. In that case an application for a premerger clearance ruling from the Antitrust Division of the Justice Department was held not to be a "claim" within the scope of the statute.

The proposed act would expand present offenses in other respects. To cite a few examples, present law forbids a governmental employee to transact business as an agent of the Government with any "business entity" in the pecuniary profits of which he is interested. The comparable rule in the proposed act would apply not only to business transactions with business organizations, but to any kind of transaction with any kind of entity in which the employee has a substantial economic interest. Furthermore, unlike the

present law, the statute specifies a number of specific situations where the employee is deemed to hold an economic interest, such as where that interest is in fact owned by his wife or child, or where he has an understanding as to future employment with a private person or firm.

Recommendation 4

"Certain important restraints now covered in regulations or not at all should be included in the basic statutes, particularly restraints relating to receipt of gifts and coercive use of office."

Present law would be further strengthened by the addition of two important areas of conduct heretofore treated only in regulations or not at all.

The first would forbid an employee of the Government to receive a thing of economic value as a gift, gratuity, or favor from anyone who the employee has reason to believe would not give the gift but for the employee's office or position with the Government. Furthermore, regular government employees are forbidden to receive gifts or favors from anyone who does business with or is regulated by his agency. Some room is left in the statute for minimal exceptions to be provided for in regulations.

The second new offense would forbid a government employee to use his office or position with the Government in a manner intended to induce or coerce a person or company doing business with him to provide him with any thing of economic value.

Recommendation 5

"The statutes should permit the retention by government employees of certain security-oriented economic interests, such as continued participation in private pension plans."

Hallmarks of modern American society are the pension plan, the group insurance plan, and other kinds of security-oriented arrangements. They are the basis of long-range economic planning by millions. Under present conflict-of-interest laws—passed when no such plans existed—there is some doubt whether an employee of the Government may legally continue as a member of some plans maintained by his former employer, at least if contributions to the plan by the employer are regularly made which benefit the Government employee. This overhanging doubt falls hard upon the noncareer employee.

The proposed act permits Government employees to continue their participation in certain private plans under some circumstances and with adequate safeguards. For example, it would permit a Government employee to remain a member of a pension, group insurance or other welfare plan maintained by his former private employer so long as the employer makes no contribution to the plan on behalf of the man in Government service. Similarly, a Government employee could continue to belong to certain of these plans even if the former employer does make contributions on his behalf, so long as the plans are qualified under the Internal Revenue Code and so long as the payments by the former employer continue for no longer than 5 years of Government service.

Recommendation 6

"Wherever it is safe, proper, and essential from the viewpoint of recruitment, the statutes should differentiate in treatment between regular employees and citizens who serve the Government only intermittently, for short periods, as advisers and consultants."

To an ever increasing extent the Government is dependent for information and advice—for learning not only how to do it, but what to do—upon part-time, temporary, and intermittent personnel. These serve individually, or as members of committees, but that service is in addition to their regular private work as scientists, technicians,

scholars, lawyers, businessmen and so on. Technically, they are, however brief their service, employees of the Government, and at present, all of the conflict-of-interest statutes apply to them. This fact has brought about both refusals to serve and conscious or unconscious ignoring of the statutes by those who do serve. It has also resulted in a welter of special statutory exemptions.

The proposed act distinguishes, in a few key places where it is safe and proper, between rules for regular full-time Government employees and rules for what are defined as "intermittent employees." Under the proposed act, an "intermittent employee" is anyone who, as of any particular date, has not performed services for the Government on more than 52 out of the immediately preceding 365 days. For such individuals, there are certain special rules under the proposed act. For example, regular full-time employees are forbidden to assist private parties for pay in transactions involving the Government; intermittent employees, who have to earn a living in addition to their occasional Government work, are allowed to assist others for pay in such transactions, except in cases where the particular transaction is, or within 2 years has been, under the intermittent employee's official responsibility or where he participated in the transaction personally and substantially on behalf of the Government.

Similarly, since intermittent employees, by definition, are employed by organizations in addition to the Government, they are not subject to the rule forbidding their Government pay to be supplemented from private sources in return for personal services. Finally, the rules as to receipt of gifts are different for the two classes of employees.

Recommendation 7

"Regular, continuing, and effective enforcement of the law and regulations should be assured by emphasizing administrative remedies, rather than the clumsy criminal penalties of present law."

The basic purpose of a system of conflict-of-interest restraints is to help maintain high ethical behavior in the executive branch of the Government. It is the judgment of this committee that the flexible and multiple weapons of the modern administrative process are more fitted to that task than the criminal law.

Because the present statutes rely on criminal sanctions, they are rarely enforced. They are, in many respects, too harsh for offenses they declare. Furthermore, enforcement by criminal law is difficult, expensive and time consuming. Accordingly, the proposed act relies basically on ordinary disciplinary procedures, including dismissal, for its sanctions. These procedures are supplemented by civil remedies particularly apt for former employees and nonemployees dealing with the particular agency—such as bans against appearances before the agency and civil damage actions.

The proposed act retains classical criminal penalties for the most flagrant violations: those committed "knowingly" or "purposely." The definitions of these terms are adopted from a draft Model Penal Code prepared by the American Law Institute.

Recommendation 8

"The statutes should create the framework for active and effective administration of the system of conflict-of-interest restraints, headed up with clear responsibility in the President. The President should designate, pursuant to the proposed act, an Administrator to assist him in this function."

One of the greatest deficiencies in the present statutes is their failure to recognize the importance of a continuing administrative structure to deal with the problem of conflict-of-interest. The proposed act would specifically provide for such an administrative machinery.

Clear overall responsibility would be placed upon the President "for the establishment of appropriate standards to protect against actual or potential conflicts-of-interest on the part of Government employees and for the administration and enforcement of this act and the regulations and orders issued hereunder."

To assist the President in carrying out this responsibility, the act calls for the designation by him, from within the Executive Office of the President, of an "Administrator." He would be answerable directly to the President. He is given a series of coordinating, consultative and advisory functions under the act. He would work closely with the Department of Justice and agency heads or their designees, but his would be a small office, and in no sense charged with centralized operation or enforcement of conflict-of-interest restraints.

Recommendation 9

"In addition to the statutes themselves, there should be a "second tier" of restraints, consisting of Presidential regulations amplifying the statutes, and a "third tier," consisting of agency regulations tailored to the needs of particular agencies. The responsibility of day-to-day enforcement of the statutes and regulations should rest upon agency heads."

The proposed act contemplates the issuance by the President of a set of regulations extending, supplementing, implementing and interpreting the provisions of the act. The act also visualizes another set of regulations at the next lower level—that of the agency heads. The Presidential regulations would take precedence over any regulations issued by agency heads.

Agency regulations would tend to follow the present pattern, namely, particularized rules adapted to the special risks of the particular agency. For example, some agencies may have special rules on use of confidential information available within the agency. Others may adopt special post-employment restraints which go beyond the statutory provision. This diversity and particularization is realistic and desirable.

Recommendation 10

"At all levels of administration potential conflict-of-interest problems should be headed off by preventive action, such as, for example, orientation programs for all new employees to acquaint them with the applicable conflict-of-interest rules, and periodic reminders as to such rules."

Much can be done to fight the conflict-of-interests problem by preventive measures. Section 11 of the proposed statute makes several suggestions. New employees can be required to certify that they have read the conflict-of-interest rules and to report on their outside employment. In particular, an effective orientation program would be helpful. Agents and attorneys appearing before agencies can also be required to file an affidavit stating that they are not, by such appearance, violating any conflict-of-interest law.

Recommendation 11

"There should be more effective prohibitions and penalties applicable to persons outside Government who induce or participate in conduct by Government employees in violation of the conflict-of-interest laws."

Not infrequently a Government employee is found in a conflict-of-interest situation and penalized for it while the person responsible for placing him in the situation remains unscathed.

The proposed act contains a new and broad section making it a violation for a person to make a payment (or transfer any other thing of economic value) to a Government employee while "believing or having reason to believe that there exist circumstances making the receipt thereof a viola-

tion of" certain sections of the act. This prohibition also covers the making of gifts in the situations corresponding to the situations in which an employee may not receive a gift.

Both administrative and criminal sanctions are applicable to these violations by persons dealing with Government employees.

Recommendation 12

"Each committee of the Senate considering a Presidential nominee for confirmation should be given the benefit of a full analysis, prepared by the Administrator in consultation with the Department of Justice, of any conflict-of-interest problems the nominee's particular situation may present. The confirming committee should give due consideration to this analysis and to the protections afforded by a modern and effectively administered overall scheme of conflict-of-interest restraints, if one is put into effect."

There is substantial evidence that the Government's efforts to recruit top-level executives have been impeded by the requirements of stock divestment imposed by the Armed Services Committee of the Senate.

This problem cannot be dealt with by statute. The confirmation power is a constitutional prerogative. However, this problem should be a subject of joint concern and increased cooperation between the executive branch and the Senate. There is some evidence that recently the executive departments have taken more pains to prepare their nominees for confirmation. Legal opinions have on occasion been furnished by the Justice Department; plans have been worked out in advance of hearing as to what need be sold and what could be kept, and representatives of the appointing department or agency confer in advance of hearing with appropriate authorities of the committee.

If the proposed act were passed, the "Administrator" would become the central repository for all information concerning conflict-of-interest, and he would be expected to assist the executive branch in working out regular procedures for preparing nominees for confirmation. He could, in cooperation with the Department of Justice and general counsel to the agency in question, prepare a full analysis of the conflict-of-interest problems of the particular nominee. Over a period of time, these analyses might be given substantial weight by the confirming committees.

Furthermore, if a modern and effective system of statutory restraints is adopted by Congress and implemented by active executive branch administration, the confirming committees might be willing to place greater reliance on the statutory rules and procedures. One clear example is the procedure for disqualification recognized by the proposed act where a Government official holds a particular economic interest in a private entity.

Recommendation 13

"The Congress should initiate a thorough study of the conflict-of-interest problems of Members of Congress and employees of the legislative branch of the Federal Government."

Primarily because of their representative function, Members of Congress and legislative branch employees are, in matters of conflict of interests, in a significantly different position from that of executive branch employees. As such, Congress must be considered separately.

A fresh examination of these problems by Congress, or by a study of group initiated by Congress, is needed. However, such a study should in no way deter immediate action with respect to the executive branch along the lines of the proposed act.

The committee's proposed program can be best assessed against the background of the

more general discussion, analysis, and findings in the report. Appendix A to this statement summarizes some of the more salient features of this background.

APPENDIX A—SUMMARY OF BACKGROUND

A. HISTORICAL BACKGROUND

The United States is today relying upon conflict-of-interest laws whose basic design was largely laid down at around the time of the War Between the States. It was 1853 and Millard Fillmore was President when the first of the present seven general conflict-of-interest laws went on the books; it forbade employees of the Government to prosecute claims against the Government. The second, enacted in 1862, forbade Government employees to take pay for assisting another person to obtain a Government contract. In 1863, employees were forbidden to transact business on behalf of the Government with any business entity in which they had a financial interest. And in 1864, the scandals of the Civil War forced Congress to reinforce the earlier statutes by making it unlawful for a Government employee to perform services for any private person or institution if the services involved something in which the Government was interested and were performed before a governmental department or agency. In 1872, as abuses continued, employees of the Government were forbidden for 2 years after leaving from prosecuting against the Government claims that had been pending in the Government departments during the period they held office.

The general history of the period and the debates in Congress throw light on the purposes of these statutes. The U.S. Government was small in size and limited in function. An ordinary man seldom came into contact with the Government; when contact occurred at all, it was likely to take the form of making a contract with the Government or making a demand or claim against it for money or property. Administrative machinery for making contracts and adjudicating claims was informal and vulnerable to corruption.

The Government was not only small and limited, but rudimentary in its administrative organization. Its employees—few or none of them specialists—were recruited through the Spoils System. They tended to regard a Government job—and what they could make out of it—as a legitimate reward for party service. A change of administration brought a sweeping change in personnel; there were few permanent Government servants. Furthermore, by prevailing legal and administrative practice, whenever it was necessary to establish rules for governmental employees the appropriate vehicle was considered to be a statute from Congress covering everybody and backed up with criminal penalties.

During the mid-1800's, and particularly as a result of the abnormal strain put on the inexperienced Government by the Civil War, a rash of scandals occurred. They centered upon two areas of governmental activity—the letting of contracts and the adjudicating of claims. Congress responded from time to time with the statutes which are now—but were not then—referred to as dealing with conflict of interests. Little or no thought was given to making the statutes consistent or to estimating what effect they would have on the recruitment of governmental personnel. Nor was any of them intended to reach beyond the precise sort of corruption that had come to light in the scandals. Hence, the present law of conflict of interest is designed to control ancient abuses in the prosecution of claims against the Government and the letting of Government contracts.

The 20th century has added only two statutes to the general law of conflict of

interest. One, enacted in 1948, merely reinforces the restraints on the prosecution of claims against the Government by former employees. The other, passed in 1917, added a new concept; it forbids a governmental employee to receive a salary from a private source for the work he performs for the Government, and forbids the outside source to supplement his salary.

The law of conflict of interest, however, does not end with these statutes. They are the most important, first, because they purport to cover everybody who works for the Government, and second, because they provide the basic framework of the law. They are supplemented, however, by a number of scattered additional statutes that apply only to particular jobs or particular individuals. As a result of pressure for manpower, there has also grown up over the years an enormous number of special and partial exceptions and exemptions to the general statutes.

This antique statutory system cannot do the job that needs to be done today. The statutes themselves are inconsistent, overlapping, vague, and unreasonably complicate, and do not meet current needs.

B. SCOPE OF THE REPORT

The unique principle underlying the general laws on conflicts of interest is as sound today as it was when it first was expressed in the form of statutes. Suppose an agent of the Internal Revenue Service is assigned to check and investigate his own tax returns. On the one hand, he represents the interest of the Government in collecting taxes; on the other, he has a personal economic interest in paying as little as possible. The evil is that the judgment of the agent is likely to be warped by the position that he is in, or that the public is likely to think it has been warped. Laws against "conflict of interest" are designed to head off an actual corrupt act, or the appearance of one, by forbidding governmental employees in advance, to occupy a position where public and private interests may conflict.

Conflict of interest is therefore distinct from theft; the tax agent has not physically taken anything from the Government. It is also distinct from bribery, for the agent has received no payment intended to influence his official conduct. It is his official status—his status as a governmental employee—that creates the problem; conflict of interest is essentially an offense arising out of that special status. Even if he in fact properly discharges his duty to the Government, the offense has been committed.

A democratic government cannot risk having its officials in a position where loyalty to their official duties conflicts with their personal economic interest. The history of man shows that in such a case some will succumb to temptation to the public injury. A corrupt government is an inefficient government. A government that plays favorites is fundamentally objectionable to the principle that everybody is equal under the law, as well as to the belief that public office is not to be used for private gain. Then, too, democratic government is derived from the consent of the governed, and consent requires confidence; if people believe that the Government is corrupt, they soon will lose their confidence in it. Even if the agent is tough with his own tax return, the situation looks corrupt, and, so far as the confidence of the public is concerned, the appearance of corruption is as harmful as the reality. Finally, the proper and approved channels through which government decisions are made are subverted when an official gets something for himself or another by the secret and improper use of his own office.

This study is limited to the kind of conflict-of-interest situation described above, official duty versus personal economic interest. There are several other limits. The

study examines the conflict-of-interest problems of the executive branch only. The legislative branch is so different from the executive and so complex that an independent, separate study project, at least as extensive as this one, would be needed. Such a study of conflict-of-interest problems in the legislative branch should however be undertaken. No substantial reasons currently appear for a similar study of the judicial branch.

The personal conflict-of-interest problems of the President and Vice President are distinct from those of the rest of the executive branch and are therefore outside the scope of the report and of its recommended act. Finally, although a conflict would arise between an official's duty to the Government and, say, his loyalty to his own family or church or college, the study is restricted to conflicts involving the employee's economic interests only on the grounds that only they are susceptible to regulation by law.

C. ENFORCEMENT AND ADMINISTRATION

Existing restraints on conflict of interest are inadequately administered by the Executive Branch of the Government. This is partly because the general laws, by their nature and structure, defy effective and continuous enforcement. Enforcement also has lagged because enforcement duties are widely dispersed and no single coordinating authority is responsible for dealing with the problem.

Violation of the general statutes is punishable by fine and imprisonment, but over the years, only a relatively few prosecutions have been brought. The nature of the statutes themselves make enforcement difficult. Furthermore, the penalties do not always fit the crime; over-harsh statutes often go unenforced.

Since the statutes are inadequate and largely unenforceable, the task of guarding against conflicts of interest falls upon the departments and agencies of the Executive Branch. No central office in the executive branch has responsibility for controlling or coordinating the administration of ethical conduct among Government employees. Although ultimately it is the task of the Presidency to establish and maintain suitable standards of behavior, no President has built up an organization to carry out this purpose. Nor has any other agency with government-wide interests in personnel done so; the Civil Service Commission, the Attorney General, the President's Assistant for Personnel Management, the Bureau of the Budget, the Cabinet Secretariat—all of these in minor respects have something to do with the problem, but for a variety of reasons none has been given or has assumed authoritative and centralized control.

The task of promulgation and enforcement of conflict of interest restraints has ultimately fallen upon the operating departments and agencies. While they have been far more energetic than the agencies of general powers, their record is uneven. A few have done little or nothing; a large majority have issued regulations, but have not been active in enforcing them; a small number have not only developed detailed regulations but also have vigorously enforced them.

Regulations exhibit a healthy diversity as new and appropriate restraints have been developed to fit the peculiar problems of conflict of interest presented by the particular task that the agency is performing. At the same time, most regulations touch upon five basic kinds of potentially dangerous conduct by government employees: (1) acceptance of gratuities; (2) outside nongovernmental employment; (3) private financial interests; (4) use and disclosure of governmental information; and (5) transaction of business with the agency by a former employer.

A few agencies have also developed vigorous and effective enforcement programs. A number of techniques are used that are designed to assure compliance with the regulations on a day-to-day basis. Among them are programs orienting new employees to the problems of conflict of interest; rules that employees certify in writing that they have read the laws and regulations and are in compliance with them; procedures under which an employee can disqualify himself from an assignment that contains a conflict of interest; procedures for review of outside employment; and rules requiring that employees regularly report outside interests that may be in conflict with official duties.

A general, and very important, conclusion of the study is that the administrative process, including well-tailored regulations, imaginative compliance procedures, and flexible penalties is far better adapted to deal with the problem of conflict of interest than the criminal law. At the present time, a few agencies are making substantial and well-conceived efforts to use these advanced administrative techniques. What the few have done, all should do.

D. THE ROLE OF CONGRESS

In addition to its role as legislator of the statutory conflict-of-interest laws, the Congress plays an important part in the development and enforcement of other restraints on conflict of interest in the executive branch.

1. Through confirmation of presidential nominees: In discharging their constitutional duty to confirm nominees of the President for executive office, the various committees of the Senate can have a considerable impact on the field of conflict of interest. In recent years, the Armed Services Committee has been particularly active in forcing nominees to sell stockholdings in companies involved in any way with defense, and thus sever some of their financial ties with private life. The committee's concern stems from the risk of conflict of interest arising out of the multibillion-dollar procurement programs of the Department of Defense. A survey of its hearings discloses that it proceeds from case to case, on an ad hoc and unpredictable course, sometimes requiring stringent divestment of stock and sometimes not. It has shown relatively little interest in forms of wealth other than stock, though no real reason exists for this result. There is evidence that its strict and inconsistent standards have been a thorn in the side of the President in seeking high officials for the Defense Department. It appears, however, that the executive branch has been developing new procedures for preparing nominees for confirmation and that the committee itself may be moving away from its most extreme position of compulsory divestment.

The conflict-of-interest statutes have received little mention in the hearings of the confirming committees; the committee's self-created standards emphasize the avoidance of the appearance of conflicts of interest.

Few other confirmatory committees have seriously inquired into the conflict-of-interest position of nominees.

2. Through general investigations: Congress also is active in the conflict-of-interest field through general investigations of governmentwide problems of ethics. Between 1948 and 1953, committees examined alleged misconduct in a number of agencies, including the Department of Justice, the Federal Housing Administration and the Treasury Department. In 1951, the Douglas subcommittee, after extensive hearings, warned the Nation that it faced major ethical problems throughout the Federal establishment. Among the direct results of these hearings was a tightening of the ethical regulations of the agencies.

The first investigation expressly and exclusively addressed to problems of conflict of interest was commenced in 1957 by the Antitrust Subcommittee of the Judiciary Committee of the House of Representatives (the Celler committee). In 1958, the staff of that committee produced an extensive study of the law and regulations on conflict of interest and proposed important legislative changes.

Only recently the so-called Hébert committee, after considerable hearings, has recommended tightening of the law with regard to the hiring by defense contractors, of retired, high-ranking military personnel.

3. Through investigations of specific cases: Finally, by investigating specific cases of misconduct by governmental officials, Congress has had a significant impact both on the enforcement of conflict-of-interest restraints and the development of new restraints. Toward the end of the Truman administration, the cases investigated tended to involve alleged overt misbehavior, bribery, influence peddling, improper receipt of gifts and the use of public office to obtain favors for friends. During the Eisenhower administration, ethics cases have inclined more directly to involve the problem of conflicting interests.

4. Summary: In the field of conflict of interests, Congress has been more energetic and vigorous and in confirmation proceedings and investigations than it has in enacting new legislation. It has, however, moved ahead of the executive branch in leadership in the area of public ethics by inquiring into the conduct of governmental employees, articulating new standards of behavior, devising proposals for reform, rooting out evil-doers, and, in general, maintaining constant pressure for ethical conduct on the part of the executive branch of the Government.

E. IMPACT OF CONFLICT-OF-INTEREST RESTRAINTS ON RECRUITMENT OF FEDERAL PERSONNEL

Conflict-of-interest restraints inevitably require public employees to adjust their personal affairs and perhaps to sacrifice some of their personal economic interests. The question is how much adjustment, how much sacrifice, is tolerable? No one, either at the time the present statutes were passed or since, has seriously inquired into this important issue. Although only approximations are possible in this field, the findings of this committee are as follows:

1. The present restraints do not deter the recruitment of full-time employees covered by the Civil Service System.

2. The present restraints—statutes, regulations, and congressional action—are a source of substantial deterrence in recruiting the more than 1,000 high-level "political executives."

(a) The strict requirements of the Senate Armed Services Committee on the divestiture of stock have made it difficult for the Department of Defense to procure top level executives. Most hard hit by the committee's rule are men owning and controlling family businesses.

(b) The restrictions of the statutes are apt to fall most heavily on the middle ranking and middle income business executive particularly as a result of the statute prohibiting the employer to supplement the employee's salary while on Government service. This statute is interpreted by some to compel the employee to abandon his pension and insurance plans held with his private employer.

(c) The statutes fall particularly harshly on lawyers, for several reasons, but seem not to have seriously impaired the availability of lawyers to work full time for the Government.

3. The statutes are serious deterrents to the recruitment of part-time and intermittent advisers and consultants, particularly lawyers.

4. The statutes not only discourage citizens from entering the Government, but to some extent encourage them to leave it.

5. Because of the difficulties of recruitment, in part because of low salaries and the rule against outside compensation, the Government has in some instances had to obtain assistance and advice informally and outside the proper and regular channels.

6. To the extent that the conflict-of-interest restraints discourage the flow of private citizens into the Government, they create a barrier to the flow of vitally needed information and ideas—particularly in the scientific and technical fields—to the Government.

F. BASIS FOR A NEW PROGRAM

Present restraints on conflict of interest are obsolete, their enforcement is inadequate, and their administration is insufficient. A thoroughgoing reconstruction of the entire machinery is urgently called for. Such a reconstruction must be founded on the relevant realities of the American Government in the 20th century.

Foremost among those realities are the following:

1. The enormous size of the Government: Today, the Federal Government is the most important single force in economy.

2. The mixed economy: Today the Government is deeply involved in such things as housing, roadbuilding, shipping, farm production, small business financing, scientific research and atomic energy. It carries on these activities through contracts, subsidies, guarantees, direct financing, technical advice and other new partnership arrangements between the Government and private parties. Indeed, there has occurred an interpenetration of Government and private institutions to such an extent that the classical dichotomy between Government and non-Government has become indistinct. The merger of private and public interests brought about by the mixed economy means that the simple assumptions of the present law will no longer hold up.

An additional consequence has been that today the Government touches and concerns the daily lives of citizens and institutions in hundreds of ways. Conflict-of-interest laws protecting only against abuses in the bringing of claims or the making of contracts are too limited.

3. The modern Federal personnel system: Unlike the period when the present law was passed, more than 90 percent of the Government's 2.4 million civilian employees are under civil service or some other merit system.

Even in the civil service there is a 20- to 25-percent turnover every year, and the problem of procuring and retaining civil servants is a very real one.

The Federal personnel system is based on the civil service, and above it, an ever-changing group of some 1,000 policymaking political executives ranging from heads of agencies down. They serve for relatively short periods of time and do not expect to make Government service a career.

Recent administrations have found it increasingly difficult to recruit such vital leadership. One reason is the low pay scales of the Government; it cannot compete in the marketplace with industry, foundations, and even universities.

Secondly, most Americans eligible for such positions, and particularly the business executive in the prime of his career, are involved in and are members of an organization and fear that they will lose their place on the promotional ladder if they leave. What is more, the movement of business executives is restricted by the complex network of pensions, insurance, and other security-oriented forms of compensation.

The basic reality is that for political executives at least, and even for the civil servant, there is a constant flow out of Govern-

ment and there must be a constant flow into Government of able personnel.

The Government increasingly has been relying during the last generation on experts, consultants, and other personnel who serve only temporarily and intermittently. Many of these serve on advisory committees, of which some 2,000 are estimated to be in existence. Apparently the needs of the Government can only be served by use of such personnel. It follows that the Government and the private sector of the economy have become in a very real sense merged. Hence, any modern conflict-of-interest system must recognize and allow for this vital portion of the Government's personnel system.

4. The modern administrative procedures: Today new administrative and legal theories make it possible to deal with the problem of conflict of interests with far greater refinement and precision than of old. Moreover, such administrative techniques have already succeeded in reducing, if not eliminating, some of the dangers against which the original statutes were addressed. Thus, the prosecution of claims is no longer a serious problem, and even contracting procedures have so improved that there is little chance of substantial corruption.

Mr. KEATING subsequently said: Mr. President, the Executive Conflict of Interest Act of 1960 which has been offered today by my distinguished senior colleague from New York and myself and cosponsored in the House of Representatives by the able Representative from New York, Mr. LINDSAY is the result of an exhaustive 2-year study by the special committee on the Federal conflict-of-interest laws of the Association of the Bar of the City of New York. The committee was made up of 10 outstanding attorneys and headed by Roswell B. Perkins, of New York City. Its 600-page report is an important contribution to a fuller understanding of the problems involved in this complex field of conflict of interest and offers reasonable and sound solutions to these problems.

The legislation we have introduced seeks to codify the various conflict-of-interest laws which are now distributed throughout our statute books. It seeks to modernize those laws and to extend them to cover all phases of activity under the Federal Government. The bill includes within its purview consultants with the Federal Government, and provides for an administrator to oversee the operation of the statute from the Executive Office.

While the language of almost any bill can be improved by hearings and study, I am convinced that this measure is a significant step in the right direction. It represents a thoroughly researched and carefully drafted attempt to deal with the very real problems in this field. It should go a long way to curb and deter those in the small minority who would breach the standards of ethical conduct which should be adhered to by all public servants. At the same time, it provides guidelines to prevent honest employees from inadvertently straying from the letter of the law.

Although the legislation we have introduced does not cover the legislative branch of the Government, it is significant to note that the special committee which drafted it recommends that this aspect of the problem be studied. I have

previously offered legislation in this field which would establish a Commission on Ethics in the Federal Government to work for that goal. I feel very strongly that this branch of Government should be covered by the same conflict-of-interest statutes which apply to the other branches, and I hope before long we will place such legislation on the statute books.

Mr. President, the American people have every right to expect the highest degree of ethical conduct by those who serve them in the Federal Government. We must take every step possible to insure that no taint of corruption or conflict of interest touches these people.

In fairness to all concerned, we need to bring our conflict-of-interest laws up to date, we need to clarify them so that all can understand their meaning and application, and we need to strengthen and tighten up their provisions. The measure Senator JAVITS and I have today introduced will substantially achieve those objectives. Its enactment will raise the level of personnel in the Federal service and will raise the public recognition of the honesty and integrity of these public servants. I hope this proposal receives the prompt, thorough, and favorable consideration it deserves.

Mr. President, this morning's New York Times contains a summary of the report issued by the special committee on Federal conflict-of-interest laws of the Association of the Bar of the City of New York. I ask unanimous consent that it be printed at this point in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

[From the New York Times, Feb. 23, 1960]
SUMMARY OF STUDY ON INTEREST CONFLICTS
IN U.S. JOBS

We are today releasing a prepublication edition of a report based upon more than 2 years of study of the so-called conflict-of-interest laws of the Federal Government. Also, we expect that there will be introduced today in both Houses of Congress a proposed Executive Conflict-of-Interest Act, which has been drafted by this committee and which is designed to remedy the manifold defects of the present law. Our findings and recommendations, which are set forth in the report, are expressed in statutory form in the proposed act.

The report will be published in the fall by the Harvard University Press.

This committee is issuing this prepublication mimeographed edition of its report so that it will be available at the public hearings on the topic of the conflict-of-interest laws which commenced on February 17, 1960, before the Antitrust Subcommittee of the Committee on the Judiciary of the House of Representatives. The House Judiciary Committee, under the chairmanship of Representative EMANUEL CELLER, of New York, has already made an important contribution to the wider understanding and improvement of this confused, but crucial, area of law and public administration. The public hearings, which have just opened, should further advance the cause of urgently needed reform. Accordingly, we have distributed some 200 mimeographed copies of prepublication edition of the report to Members of Congress, the press and to various Federal departments and agencies.

This official summary has been prepared for the information and guidance of those interested persons to whom the report is not available and as a guide to the report.

OBJECTIVES

The report of the committee has two themes. The first is that ethical standards within the Federal Government must be beyond reproach, and that there must, accordingly, be effective regulation of conflicts of interest in Federal employment. The second is that the Federal Government must be in a position to obtain the personnel and information it needs to meet the demands of the 20th century.

These themes are coequal. Neither may be safely subordinated to the other. What is needed is balance in the pursuit of the two objectives. We need a longrun national policy which neither sacrifices governmental integrity for opportunism nor drowns practical staffing needs in moralism. We need a careful regulatory scheme that effectively restrains official conflicts of interest without generating pernicious side effects on recruitment.

The basic conclusion of the committee is that such a scheme can be worked out. The report and the proposed act contain a recommended new program for achieving this result.

ASSESSMENT OF EXISTING RESTRAINTS

The committee has concluded that the legal and administrative machinery of the Federal Government for dealing with the problem of conflicts of interest is obsolete, inadequate for the protection of the Government, and a deterrent to the recruitment and retention of executive talent and some kinds of needed consultative talent.

OBsolescence

The statutory law—most of it a century old—is not broad enough to protect the Government against the manifold modern forms of conflict of interest. Most of the statutes were and are pointed at areas of risk that are no longer particularly significant, mainly the prosecution of Government claims. Today, with the greatly expanded regulatory functions of the Federal Government, applications for rulings, clearances, approvals, licenses, certifications, grants and other forms of Government action are far more significant in the daily operation of Government than the prosecution of claims. Several of the basic statutes now on the books do not concern themselves at all with these modern governmental activities.

Other aspects of obsolescence in the present statutes are:

(a) Their focus of interest upon a class of lower ranking politically appointed clerks that has disappeared. The Government today obtains its manpower through a vast civil service, a top layer of short-term political appointees, an increasing group of advisory and part time personnel, and through an unlimited variety of contracts for services provided by non-Government personnel.

(b) Their failure to recognize internal procedures of modern government, such as the flexible processes of personnel administration available to assist in enforcement.

(c) Their lack of recognition of the facts of modern economic life, such as the existence of private pension plans.

(d) Their failure to recognize the essential blending of public and private endeavor in the modern American society, as illustrated by the partnership of Government, industry and educational institutions in the science field.

INADEQUATE ADMINISTRATION

Partly by reason of the deficiencies in the statutory law, administration of the conflict-of-interest restraints has always been weak. The Government has failed to provide a rational, centralized, continuing and effective

administrative machinery to deal with the problem. If the statutes presented a coordinated whole—a unified program—and if they imposed direct responsibility on the President to carry out that program, the central coordination and leadership missing in the past would improve. A well-administered program could, and should guide the thousand good men as well as snare the one bad one.

UNCERTAINTY IN INTERPRETATION

Enacted fitfully over a 100-year span, the uncoordinated statutes are inconsistent, overlapping and at critical points defy interpretation.

THE CONGRESS

Congress has done a useful and constructive job in its capacity as investigator. But the Senate confirming committees have seldom considered the overall issue of conflict of interests in relation to recruitment. The Armed Services Committee has applied a wavering standard of stock divestment, useful for certain purposes, but overemphasizing one single source of conflict-of-interest problems and having little bearing on the question of actual official conduct.

RECRUITMENT

The main adverse effect of the present system is its deterrent effect on the recruitment and retention of executive talent and some kinds of consultative talent. The restrictions tend to encircle the Government with a barricade against the interflow of men and information at the very time in the Nation's history when such an interflow is most necessary.

RECOMMENDATIONS

The defects in the present law cannot be cured by tinkering. A thorough-going reconstruction is called for—a new program of controls designed for modern needs, providing for adequate administration, and written as an integrated unit. The program must achieve a balance between the Nation's need for protection against conflicts of interest and its need for personnel.

The committee's basic recommendations are these:

1. Conflict-of-interest problems should be recognized and treated as an important, complex, and independent subject of attention and concern in the management of the governmental establishment.

2. The present scattered and uncoordinated statutes relating to conflicts of interest should be consolidated into a single unified act, with a common set of definitions and a consistent approach. Archaic provisions should be repealed.

3. The restraints contained in the present statutes should be greatly expanded in their scope by making them applicable to essentially all matters in which the public deals with the modern Federal Government.

4. Certain important restraints now covered in regulations or not at all should be included in the basic statutes, particularly restraints relating to receipt of gifts and coercive use of office.

5. The statutes should permit the retention by Government employees of certain security-oriented economic interests, such as continued participation in private pension plans.

6. Wherever it is safe, proper, and essential from the viewpoint of recruitment, the statutes should differentiate in treatment between regular employees and citizens who serve the Government only intermittently, for short periods, as advisers and consultants.

7. Regular, continuing, and effective enforcement of the law and regulations should be assured by emphasizing administrative remedies rather than the clumsy criminal penalties of present law.

8. The statutes should create the framework for active and effective administration

of the system of conflict-of-interest restraints, headed up with clear responsibility in the President. The President should designate, pursuant to the proposed act, an administrator to assist him in this function.

9. In addition to the statutes themselves, there should be a second tier of restraints consisting of presidential regulations amplifying the statutes, and a third tier consisting of agency regulations tailored to the needs of particular agencies. The responsibility for day-to-day enforcement of the statutes and regulations should rest upon agency heads.

10. At all levels of administration potential conflict-of-interest problems should be headed off by preventive action, such as, for example, orientation programs for all new employees to acquaint them with the applicable conflict-of-interest rules, and periodic reminders as to such rules.

11. There should be more effective prohibitions and penalties applicable to persons outside Government who induce or participate in conduct by Government employees in violation of the conflict-of-interest laws.

12. Each committee of the Senate considering a Presidential nominee for confirmation should be given the benefit of a full analysis, prepared by the administrator in consultation with the Department of Justice, of any conflict-of-interest problems the nominee's particular situation may present. The confirming committee should give due consideration to this analysis and to the protections afforded by a modern and effectively administered overall scheme of conflict-of-interest restraints, if one is put into effect.

13. The Congress should initiate a thorough study of the conflict-of-interest problems of Members of Congress and employees of the legislative branch of the Federal Government.

The program advanced here will not solve the problem of conflict of interests in Federal employment. Like most problems, this is one we must live with permanently, strive to mitigate, and adjust to. The program proposed, however, will do several things.

It meets the flaws of the present pattern of conflict-of-interest restraints—obsolescence, weakness of administration, and faulty drafting. It would greatly strengthen the main policy of the conflict-of-interest statutes—preservation of the integrity of Government. It would provide for an integrated and comprehensible system of standards and sanctions, together with an effective machinery for administering that system. It is grounded upon a realistic conception of the problem of conflicting interest, as it appears in the modern setting of American Government and society. It would make a significant contribution toward intelligent staffing of the Federal Government for world leadership.

BAR COMMITTEE'S MEMBERS

WASHINGTON, February 22.—Following is a list of the members of the special committee on the Federal conflict-of-interest laws of the Association of the Bar of the City of New York:

Howard F. Burns, partner, Baker, Hostetler & Patterson, Cleveland, member of the council of the American Law Institute; Charles A. Coolidge, partner, Ropes, Gray, Best, Coolidge & Rugg, Boston, former Deputy Director of Internal Security Affairs, Department of State; Paul M. Herzog, executive vice president of the American Arbitration Association, New York, former Chairman of the National Labor Relations Board, former associate dean of the Graduate School of Public Administration, Harvard University; Alexander C. Hoagland, Jr., practicing lawyer associated with Curtis, Mallet-Prevost, Colt & Mosle, New York City; Everett L. Hollis, corporate counsel, General Electric Co., New York City, former General Counsel, Atomic

Energy Commission; Charles A. Horsky, partner, Covington & Burling, Washington, former assistant prosecutor at Nuremberg with the Chief of Counsel for War Crimes; John V. Lindsay, U.S. Representative from the 17th Congressional District, New York, partner, Webster, Sheffield & Chrystie, New York City; John E. Lockwood, partner, Milbank, Tweed, Hope & Hadler, New York City, former General Counsel, Office of Inter-American Affairs; Roswell B. Perkins, chairman, partner, Debevoise, Plimpton & McLean, New York City, former Assistant Secretary of Health, Education and Welfare, former counsel to the Governor of the State of New York; Samuel N. Rosenman, partner, Rosenman, Goldmark, Colin & Kaye, New York City; former special counsel to Presidents Roosevelt and Truman, former Justice of the Supreme Court of the State of New York.

AUTHORIZATION FOR APPROPRIATIONS FOR ATOMIC ENERGY COMMISSION

Mr. ANDERSON. Mr. President, I introduce, for appropriate reference, by request, a bill, S. 3084, to authorize appropriations for the AEC in accordance with section 261 of the Atomic Energy Act of 1954, as amended.

S. 3084 authorizes, in section 101, \$171,256,000 for new AEC construction projects for the entire atomic energy program, including items for the production of special nuclear materials, atomic weapons, reactor development, physical research, biology and medicine, community, and general plant projects.

The bill also provides, in section 109, funds for the cooperative power reactor demonstration program, amounting to an increase of \$40 million. In section 110 the bill authorizes \$5 million for a cooperative research and development program with Canada in connection with heavy water moderated nuclear powerplants.

The Joint Committee on Atomic Energy plans to hold hearings on this bill March 8-10 and April 5-7, 1960. In the March hearings, the committee plans to consider all construction projects in section 101; and in the April hearings, the committee will concentrate on the cooperative atomic power program and the proposed cooperation with Canada for the heavy water moderated reactors. The hearings will, for the most part, be held in public, although aspects of the production and atomic weapons programs will necessarily be considered in executive session.

I am introducing this bill by request, since it is in the form requested by the Atomic Energy Commission. The Joint Committee will give careful and thorough consideration to each item in the bill and, as in the past, it is entirely possible that the Joint Committee may recommend some change in order to assure an atomic energy program consistent with our long-range national needs and objectives.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3084) to authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes, intro-

duced by Mr. ANDERSON, by request, was received, read twice by its title, and referred to the Joint Committee on Atomic Energy.

NATIONAL AMERICAN GUILD OF VARIETY ARTISTS WEEK

Mr. KEATING. Mr. President, I introduce, for appropriate reference, a joint resolution to designate the week of June 5-11, 1960, as National American Guild of Variety Artists Week. A companion measure is today being introduced in the other body by that great champion of the American entertainer, the Honorable SEYMOUR HALPERN, of New York.

Designation of this week would be a fitting salute to people who have spread the sunshine of entertainment and happiness all over the world. It would constitute an appropriate recognition of their untiring efforts in behalf of a myriad of worthy causes.

Over the years members of the guild have been extremely generous in the donation of their time and talents to benefit persons of every race, color, creed, or national origin. As the president of the guild, the incomparable Joey Adams has pointed out, "The variety entertainer is synonymous with charity."

At the same time, by hewing to the principle that it is talent and skill alone that counts—not color of skin, or house of worship, or some other superficial attribute—American entertainers have set a fine example for men of good will everywhere to emulate.

AGVA is now planning to establish a home in Fallsburg, N.Y., for retired and indigent members of the profession. During the week which is proposed by this joint resolution Americans everywhere would be given an opportunity to contribute to this most worthy endeavor.

Mr. President, I am pleased to salute Joey Adams and other members of his profession for their many past humanitarian endeavors. I commend them for the drive they have launched to provide a haven for retired entertainers. I hope the Congress will grasp the opportunity offered by this joint resolution to express its appreciation, congratulations, and best wishes to this outstanding group. By enacting this joint resolution, we can resoundingly applaud the 20,000 members and their families who make up the National American Guild of Variety Artists.

Mr. President, I ask unanimous consent to have printed in the Record the full text of this joint resolution.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the Record.

The joint resolution (S.J. Res. 168) designating the week of June 5-11, 1960, as National American Guild of Variety Artists Week, introduced by Mr. KEATING, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the Record, as follows.

Whereas for many years performers and artists in the variety field have circled the